

Approved Minutes of the
BOUNTIFUL CITY PLANNING COMMISSION
November 17, 2020
6:30 p.m.

Present:	Commission Chair	Sean Monson
	Commission Members	Jesse Bell, Jim Clark, Lynn Jacobs, Sharon Spratley, and Councilwoman Kendalyn Harris
	City Attorney	Clinton Drake
	City Engineer	Lloyd Cheney
	Planning Director	Francisco Astorga
	City Planner	Curtis Poole
	Assistant Planner	Kendal Black
	Recording Secretary	Darlene Baetz
Excused:	Commission Member	Sam Bawden

1. Welcome and Introductions.

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

2. Approval of the minutes for October 20, 2020.

October 20, 2020 minutes to be reviewed and approved at next meeting.

3. Bountiful City Land Use Code Text Amendment Request regarding Accessory Structures in the Single-Family Residential Zone.

Planning Director Francisco Astorga presented the item.

The Planning Commission reviewed this item during the October 20, 2020 Commission meeting where the Commission deliberated the proposed amendment. The Commission considered public comment as they opened and closed the Public Hearing, and the item was continued to the next available meeting. The Commission provided direction to staff to add additional information for the next meeting.

Staff showed a presentation of several properties that are affected by the Administrative Law Judge's interpretation. These photos show the City's current and historical interpretation have been consistent.

Director Astorga clarified the language about the accessory structure setback "An accessory structure shall meet all of the setbacks of a primary structure, or it shall be located behind the rear setback ten (10) feet from a rear or interior side property line, and at least twenty (20) feet from a street side yard property line." He stated that the "or" should not be "and" because of the possible change if the primary structure changes to the accessory structure. Chair Monson was concerned that the accessory structure is parallel with the accessory structure. Director Astorga discussed the proposed changes.

The Commission members discussed the measurement from the front wall plane and proposed language.

1
2 Director Astorga discussed the ambiguity of the applicable code as it can be much different with
3 every situation, which would be hard to identify every possible scenario.
4

5 Chair Monson discussed the possible option of measuring from a midpoint of the primary structure
6 regarding the placement of the accessory structure.
7

8 Commissioner Spratley feels that the proposed 10 feet is a little light and wants it to be at least 15
9 feet or more.
10

11 Director Astorga stated that the staff was trying to keep the code simple using a setback since there
12 are different footprints in the newer homes and could become quite frustrating for staff depending on
13 their complex roof forms. There was discussion about the simplicity of the language of 10 foot behind
14 the primary structure.
15

16 City Attorney Drake stated that a property owner would not be able to expand a non-conforming use.
17 The Administrative Law Judge's decision made a comment that the building was illegal and not a
18 non-conforming. The same interpretation would be applied to other structures.
19

20 There was discussion about whether the Commission would allow comments from the public as there
21 was already a public hearing on this issue and it was closed in the previous meeting. City Attorney
22 Drake stated that regardless of whether they decide to listen to comment from the public, there will
23 also be another public hearing at the City Council meeting on December 8, 2020 where the public
24 will be able to speak on the item.
25

26 Commissioner Jacobs made a motion to open another public hearing. Commissioner Spratley
27 seconded the motion. Voting passed 6-0 with Commission members Bell, Clark, Harris, Jacobs,
28 Monson, and Spratley voting aye.
29

30 Chair Monson opened the **PUBLIC HEARING** at 7:13 p.m.
31

32 Greg Roberts (legal counsel representing Mr. and Mrs. Jim Williams located at 2544 South 100 East)
33 noted that the Williams do support the text amendment. He discussed the case Fox vs. Park City.
34 Paragraph 36 states "A building permit that is applied for and issued in good faith is clearly an
35 affirmative action of the municipality upon which a developer should be able to rely. If a building
36 permit is issued based on a municipality's interpretation of the applicable zoning ordinances, the
37 municipality would be estopped from later asserting a different interpretation and attempting to
38 revoke the permit after the permit holder has incurred extensive expense in reliance on the permit."
39 He feels that this is what is happening to his clients and believes that the structure should not be torn
40 down.
41

42 Ryan Tingey (2502 South 150 East) discussed the Administrative Law Judge decision and feels that
43 his decision will not impact any of the properties that the city staff spoke about in the presentation.
44 He is opposed to making this code change.
45

46 Emily Christenson (2502 South 150 East) is strongly opposed to the proposed changes and believes
47 that the current code makes sense and is the best for the accessory structures. She believes that the

1 properties that was in the City's presentation is already in compliance with the code and feels that the
2 information presented from staff is not backed by any data.
3

4 Les Merrill (2347 South Orchard Place) thanked the Planning Commission for their time. He was
5 concerned for the properties that would now be non-compliant and would not be able to remodel or
6 build it if this code is not addressed.
7

8 No name given (Bountiful Citizen) is concerned that the code needs to be clear for setbacks. This is
9 a challenge and would like to ask the Commission members to be aware of the different building
10 types and styles.
11

12 Jody Williams (2544 South 100 East) spoke about the group site on Facebook that the neighbors were
13 asking everyone to send a letter to the city offices. She stated that this garage was done legally and
14 had been given all the correct permits.
15

16 Assistant Planner Kendal Black read the emails that were sent to the Planning Department.. (These
17 people were not present at the meeting and it is unknown if those without listed addresses are
18 Bountiful residents.)
19

- 20 • Donita Tingey feels sad that the planning department want to change the code.
21
- 22 • Brock Anderson feels that the proposed 10-foot setback behind the front setback is not
23 appropriate.
24
- 25 • Kristin Whitlock (2480 South 150 East) is concerned about the proposed accessory structures
26 change.
27
- 28 • Ben Hodgkinson stated that the proposed changes to the code should be for new projects.
29
- 30 • Brandon Handy feels that the current code has been working fine and urges Bountiful staff to
31 do the right thing.
32
- 33 • Tim Pester is not a Bountiful resident but feels the proposed changes are disturbing and that
34 the City is involved in dirty politics.
35
- 36 • Rachel Shaw feels that the City should prevent problems and not cover them up.
37
- 38 • Brent and Diane Russon wanted to commend all at the Bountiful City offices but was
39 concerned for the huge building that was built in their neighborhood.
40
- 41 • Matt Korpita stated that he does not know who this code change would benefit.
42
- 43 • Kristin Blanchard opposed any changes to the accessory structure.
44
- 45 • Merrill Menlove (168 East 2450 South) was concerned about the large accessory structure in
46 their neighborhood.
47

- 1 • Sherry Robinson was confused about this meeting and this issue is being continued to be
2 spoke about. She feels that the city officials are not doing the best for all concerned.
3
- 4 • Sheldon Turner stated that he has witnessed pure harassment from the neighbors on social
5 media and flyers. He feels that the owner has received the correct permits, is building is on
6 his property and the structure sits back far enough that it would not have an impact on
7 neighbors.
8

9 Jim Williams (2544 South 100 East) would like all of the emails read except the last one be struck
10 from the record and feels that these emails are the Tingey friends who were asked to write an email
11 against his accessory structure and not about the agenda item. Chair Monson noted his concern but
12 stated that the emails are public comments and needs to remain with these minutes.
13

14 Chair Monson closed the **PUBLIC HEARING** at 8:06 p.m.
15

16 Chair Monson asked for clarification on the ALJ (administrative law judge) decision and size limits.
17 He feels that the comments that have been made about this agenda item is being directed to the one
18 building permit and wonders what the impact of the decision of the ALJ would be to other projects.
19 City Attorney Drake stated would prefer not to answer the question about the impact of the decision
20 of the ALJ, due to the fact that this building permit/project is in litigation.
21

22 Chair Monson does not feel that this text amendment is what he wants to see. Director Astorga spoke
23 that there are not that many lots that would be affected and believes that this proposed code change
24 solves the issue.
25

26 City Attorney Drake stated that this issue has been brought upon the City. This is not the City
27 changing midcourse but trying to maintain and bring clarity to the code. If there had not been an
28 Administrative Law Judge decision, then City staff would continue to interpret the ordinance as they
29 have done in the past and as the code states. In preparing for this text change, the Planning
30 Department staff have done a great deal of research to the impact of structures and stated that there
31 are very few lots in Bountiful that the proposed code changes would impact.
32

33 Planner Black stated the change from seeing the accessory structure in the side yard to the rear of the
34 building and not the rear of the building lot was in 2007.
35

36 Commissioner Harris does not feel that the current code is perfect but feels that the historic
37 interpretation is good, and the staff proposed recommendation was the best.
38

39 Commission Jacobs feels that the text change does not match the historic interpretation and sees that
40 there are unique changes but does like the use of a Conditional Use Permit.
41

42 City Engineer Cheney discussed that there would be very few lots in the City that could place a large
43 accessory structure on it.
44

45 Commissioner Clark recognizes that the code is not perfect but feels that we should move forward.
46

1 Commissioner Bell stated that we have discussed this at great length and believes that we need to
2 stay close to the historic code and does agree that there are not many lots that this would apply to. He
3 feels that 10 foot is a minimum but thinks that 15-20 feet is better.
4

5 Commissioner Spratley does not feel comfortable about the 10-foot setback, she feels that this could
6 impact a lot of properties in the city.
7

8 City Planner Poole stated that the staff is looking to the future and are thinking about property owners
9 who would want to add on to the home but would be unable to if they have an existing accessory
10 structure and could not expand beyond that structure.
11

12 Commissioner Harris made a motion to forward a positive recommendation to the City Council for
13 the Bountiful City Land Use Code Text Amendment regarding Accessory Structures in the Single-
14 Family Residential Zone with the language recommended by staff. Commissioner Clark seconded
15 the motion. Voting was 2-4 with Commissioners Clark and Harris voting aye, and Bell, Jacobs,
16 Monson and Spratley voting nay. Motion failed.
17

18 Commissioner Bell made a motion to forward a recommendation of approval to City Council for the
19 Bountiful City Land Use Code Text Amendment regarding Accessory Structures in the Single-Family
20 Residential Zone with the language recommended by staff changing from 10 to 20 feet behind the
21 front building line. Commissioner Jacobs seconded the motion. Voting passed 5-1 with
22 Commissioners Bell, Clark, Harris, Jacobs, and Spratley voting aye, and Monson voting nay.
23

24 **4. Planning Director's report, review of pending applications and miscellaneous business.**
25

26 The Brooks – Final and CUP
27 Text Amendment – Temporary Sales Office.
28 Next meetings will be Dec 1 and 15.
29

30 Chair Monson ascertained there were no other items to discuss. The meeting was adjourned at
31 8:57p.m.
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Sean Monson
Planning Commission Chair