

**Bountiful City
Planning Commission Minutes
September 18, 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 Council Representation – Richard Higginson; City Attorney – Clint Drake; City Planner – Chad Wilkinson; City Engineer – Lloyd Cheney; and Recording Secretary – Darlene Baetz

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 4, 2018.

Sharon Spratley made a motion to approve the minutes for September 4, 2018 as written.

Tom Smith seconded the motion. Voting passed 7-0 with Commission members Bell, Clark, Higginson, Hill, Monson, Spratley and Smith voting aye.

3. PUBLIC HEARING – Consider amending Section 14-14-124 of the Bountiful City Land Use Ordinance in order to allow accessory units to be leased and/or occupied by persons who are not immediate family members of the owner-occupant of the dwelling and other related changes.

Chad Wilkinson presented the staff report.

Consider an amendment to Section 14-14-124 Related to accessory dwelling units. Specifically consider an amendment to the residency requirements of the ordinance and other changes to clarify owner occupancy provisions.

The City Council has directed staff to bring forward changes to the accessory dwelling unit (ADU) ordinance for review. Specifically, the Council has asked staff to consider changes to the code to allow for non-relatives to occupy an accessory unit. Current code restricts occupants of an ADU to “members of the immediate family of the principal owner-occupants of the dwelling and shall be limited only to legal dependents, children, parents, siblings, grandchildren, and grandparents.”

The City has enforced this restriction by requiring the owner to obtain a conditional use permit and sign a deed restriction acknowledging the standards for ADU’s and recording the restriction against the property. Other than these requirements, the City has no way of knowing whether an ADU is rented to a non-relative once the use has been approved. The relative requirement was placed as a way to limit the number of accessory units in the City and to mitigate conflicts and potential complaints related to these units. In reality the City receives very few complaints about permitted ADU’s because of the owner occupancy requirement. The City currently implicitly requires that the owner of the property live in the principal unit. However, the owner occupancy requirement could be made clearer. In addition to allowing non-relatives to occupy an ADU, it is recommended that the owner occupancy requirements be clarified.

A few other issues that are worth clarifying in the ADU standards relate to parking and the size and design of an ADU. In relation to parking, it is recommended that the parking standards be modified slightly to clarify that all occupant vehicles must be accommodated off-street. This may restrict some properties from having an accessory unit. However, this is the primary complaint from neighboring property owners related to accessory units. It is suggested that a change to clarify that a second entrance which is visible from the front or exterior side yard is not allowed also be included in the revised ordinance.

One other issue that has created difficulty with past accessory units, particularly attached units, is the overall size of the unit. Currently accessory units are limited to 25 percent of the total square footage of the primary dwelling structure. Most often, attached accessory units are located in the basement of a home. Most of these attached units are designed to occupy the majority of the basement area with the principal unit being upstairs. Limiting the unit to 25 percent of the primary dwelling structure usually results in a unit that can only occupy half of the basement. This often creates difficulty since a unit may be on the opposite side of the home from an access doorway or staircase. It is suggested that increasing the allowed size to 40 percent of the total square footage of the structure will take care of this issue.

Accessory dwelling units are an effective way to provide additional affordable housing in Bountiful City. Many of the impacts from accessory dwelling units have already been anticipated in the existing ordinance. A few changes have been suggested to address issues such as parking, clarifying owner occupancy provisions and increasing the allowed square footage of the units in order to improve the ability for staff to effectively administer the ordinance.

Staff recommends that the Planning Commission forward a recommendation of Approval for the attached changes to the Accessory Dwelling Unit ordinance.

Mr. Wilkinson clarified the difference between an accessory structure and an accessory unit. An accessory structure could be an RV shed with a non-living area, a unit is for living space. Most of the units for which the City receives an application are inside the primary structure. The properties that have previously been approved will be sent a notice informing them of the changes.

There was discussion about the units including laundry facilities, sinks, and stoves.

The owner could occupy either the primary or accessory unit. The owner occupied units can't collect rent and this is to prevent the dwelling becoming a duplex.

Mr. Wilkinson read the definition of dwelling unit "DWELLING, UNIT: One or more rooms in a dwelling, apartment, hotel or apartment motel, designed for or occupied by one (1) family for living or sleeping purposes and having one (1) kitchen or set of fixed cooking facilities other than hot plates or other portable cooking units unless a second kitchen has been approved pursuant to Section 14-4-120 of this title."

Chair Monson opened the **PUBLIC HEARING** at 6:52 p.m.

Mark Thompson resides at 1536 Stone Hollow Dr. Mr. Thompson is concerned about the change of a single family to a 2-family dwelling. He feels that the changes are objectionable but understands the necessity of allowing in certain areas.

Ethel Black resides at 205 N 100 East. Ms. Black has mixed emotions about this proposed change as it would change the whole neighborhoods. She is concerned that it would be allowed just in the Downtown area.

Chair Monson closed the **PUBLIC HEARING** at 6:57 p.m.

Mr. Wilkinson stated that under state law a single family is defined as “up to 4 unrelated individuals” anywhere in the City.

Mr. Higginson stated that most properties could not meet the parking of 2-cars in the garage.

Staff stated that this would be allowed in any Single Family zone.

Mr. Wilkinson discussed that the percentage should not be the same as the principle residence and the property owner would not need to reauthorize when there is a change of ownership. Most complaints from these properties have been about the parking, which is taken care of quickly because of the owner occupied requirement. A letter explaining the new code will be mailed to existing ADU.

There was discussion about removing the language about the laundry facility; the current definition does not include a sink in the kitchen.

Sharon Spratley made a motion that the Planning Commission forward to the City Council a recommendation of approval to allow accessory units to be leased and/or occupied by persons who are not immediate family members of the owner-occupant of the dwelling as outlined by staff.

Von Hill seconded the motion. Voting passed 6-1 with Commission members Bell, Clark, Higginson, Hill, Monson and Spratley voting aye and Smith voting nay.

Von Hill recused himself from the meeting due to involvement in item #4 plans.

4. PUBLIC HEARING – Consider approval of a proposed Variance to the standards of the Bountiful City Land Use Ordinance to allow for encroachments on slopes greater than 30% and to allow for cuts and fills and retaining walls in excess of 10 feet in height located at 1581 Stone Hollow Dr, William Low, applicant.

William Low was present. Chad Wilkinson and Lloyd Cheney presented the staff report.

The applicant, William Low, has requested a variance to allow for encroachments on slopes greater than 30 percent and for cuts and fills and retaining walls greater than 10 feet in height for the property located at 1581 Stone Hollow Drive in the R-F (Residential Foothill) zone. The proposed variance would allow for construction of a new home on the site.

The application for variance is submitted in conjunction with a proposal for a new residence. The lot is over 19 acres in size and the proposed development is located predominantly on slopes that are less than 30 percent. The application does include some encroachments on slopes greater than 30 percent and cuts and fills and retaining walls greater than 10 feet in height in order to accommodate the

driveway accessing the new home. These areas are limited to isolated patches of 30 percent slope crossed by the driveway and to some retaining walls built around the perimeter of the home.

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 “Purposes and Objectives” section of the Residential Foothill standards recognizes the need for some flexibility in administering the hillside protection standards of the Code. The Code also states that the encroachments should be the minimum necessary to allow for reasonable development of the property. The proposed design does a good job of keeping the home and improvements out of the steepest areas of the lot in favor of areas of less than 30 percent slope. The small encroachments in 30 percent areas have been kept to a minimum. The design has also made every effort to limit cuts and fills and retaining walls to less than 10 feet in height. With a few changes outlined in the attached annotated site plan the variance will be the minimum necessary to allow the proposed development.

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

Staff Response: Unlike many undeveloped properties in the R-F Zone, the lot has a large portion (which is several acres in size) that is less than 30 percent slope. The challenge comes in accessing in the buildable areas without encroachments into 30 percent slope areas. The lot has a few small pockets of 30 percent slope that the development plan has tried to avoid to the extent possible and has limited heights of retaining walls and cuts and fills in order to make use of the buildable areas.

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

Staff Response: There are a few areas of encroachment shown on the plan that are not necessary to develop the proposed home. The attached annotated site plan includes a limit of disturbance that constitutes a reasonable disturbance of the lot in order to building the proposed home.

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

Staff Response: For the most part the design has avoided encroachments into 30 percent slopes. With a few modifications as shown on the annotated site plan, the variance is consistent with the general plan and the Code which limits disturbances in steep slope areas to the minimum necessary to provide for reasonable development of the property.

(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 that 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. As proposed, the area of disturbance includes impacts to areas that are not required in order to construct the desired home. It is recommended that the approval of the variance should be contingent on the limit of disturbance indicated on the annotated site plan.

Based on analysis of the required review criteria from State law included in the findings above and the materials submitted by the applicant, staff recommend that the Planning Commission approve the variance with the following condition:

1. The disturbance of the property shall be limited to areas within the “Limit of Disturbance” noted on the annotated site plan in order to retain as much native vegetation as possible and to minimize impacts on slope areas.

Mr. Cheney showed changes made to the second driveway into a hammerhead and spoke about the water pressure and the retaining walls.

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

Mark Thompson resides at 1536 Stone Hollow Dr. Mr. Thompson is a neighbor across from the proposed driveway and is concerned about water from large storms coming down the new driveway into his driveway and flooding his home. He is also concerned about the rain storms undermining the street and wonders if there are any other options for a drainage system for this driveway.

Chair Monson closed the **PUBLIC HEARING** at 7:38 p.m.

Mr. Cheney responded to Mr. Thompson’s concerns. The driveway will have a curb wall that will be built on the downhill side of the property. Runoff from the driveway will need special attention which will be looked at when the plans are submitted. Looking at the history of this area, the possibility of damage to the road is not a concern at this point. There is enough of a grade on Stone Hollow to allow water flow to go south. A change in location of the driveway would be a greater impact with larger retaining walls. Any driveway design would have to cross a 30% grade to be able to allow for the fire truck access.

Mr. Wilkinson stated that staff is involved with the applicant to help minimize the encroachments on 30% slopes.

Sharon Spratley made a motion that the Planning Commission approve the Variance to the standards of the Bountiful City Land Use Ordinance to allow for encroachments on slopes greater than 30% and to allow for cuts and fills and retaining walls in excess of 10 feet in height located at 1581 Stone Hollow Dr. with the one condition outlined by staff.

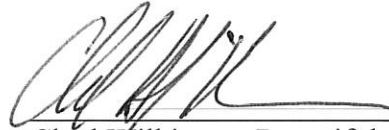
Tom Smith seconded the motion. Voting passed 6-0 with Commission members Bell, Clark, Higginson, Monson, Smith and Spratley voting aye.

Mr. Drake clarified that Mr. Hill was recused from the meeting before item 4 was presented due to involvement in item #4 plans.

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

1. Next Planning Commission meeting will be October 2, 2018.
2. Utah APA meeting will be held at Jordan Commons on October 4 and 5, 2018.

Chair Monson ascertained there were no other items to discuss. The meeting was adjourned at 7:54 p.m.

A handwritten signature in black ink, appearing to read 'Chad Wilkinson', is written over a horizontal line.

Chad Wilkinson, Bountiful City Planner