

**Bountiful City  
Planning Commission Minutes  
June 18, 2019  
6:30 P.M.**

Present: Chair – Sean Monson; Vice Chair – Von Hill; Planning Commission Members – Jesse Bell, Jim Clark, and Sharon Spratley; City Council Representation – Richard Higginson; City Attorney – Clint Drake; Asst City Planner – Curtis Poole; City Engineer – Lloyd Cheney; and Recording Secretary – Darlene Baetz

Excused: Planning Commission Member – Tom Smith

**1. Welcome and Introductions.**

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

**2. Approval of the minutes for June 4, 2019.**

Richard Higginson made a motion to approve the minutes for June 4 as written. Jim Clark seconded the motion. Voting passed 6-0 with Commission members Bell, Clark, Higginson, Hill, Monson, and Spratley voting aye.

**3. PUBLIC HEARING – Consider approval of a variance to the standards of the Bountiful City Land Use Ordinance to allow for retaining walls greater than 10 feet located at 1233 E Sunrise Place, Jason and Amanda Kier, applicant.**

Jason and Amanda Kier were present. Curtis Poole presented the staff report.

The applicants, Jason and Amanda Keir, have requested a variance to allow for retaining walls greater than 10 feet in height for their property located at 1233 East Sunrise Place in the R-F (Residential Foothill) zone. The proposed variance would allow for construction of a new home on this vacant property.

Section 14-2-111 authorizes the Administrative Committee as the review body for variance requests within the R-F zone related to retaining walls exceeding 10 feet in height. Section 14-2-104 authorizes the Chairman of the Administrative Committee to assign any item designated for Administrative Committee review to the Planning Commission, in which case the Planning Commission acts under the same authority granted to the Administrative Committee.

In 1985 Sunset Hollow subdivision Plat A was approved. The applicant's property, 1233 East Sunrise Place, or lot 15, was part of the approved subdivision. As the subdivision was developed, Sunrise Place was graded and a fill slope was constructed for the west side of the cul-de-sac, resulting in a steeper slope than the natural grade at the front of the property from the road. The property to the north, a detention pond owned by the United States Government, was constructed after the subdivision was approved. Lot 15 has remained vacant since creation of the subdivision.

The applicants have submitted a proposal for a new home to be built on their property. With the steepness of the downward slope the applicants needed to address the reverse grading of the driveway, disturbing slopes greater than 30% and the height of the retaining walls. The slopes which exceed 30% are limited to the fill slope associated with the construction of the cul-de-sac. This is not a naturally occurring feature of the property.

The challenge for the applicants, similar to others in the R-F zone, was to balance all three of these concerns. In their design, the applicants were able to reduce the downward slope of the driveway; however, it still requires a retaining wall taller than 10 feet. The wall is roughly 17 feet at the highest point. Because the wall is taller than the 10 foot minimum standard in code it is necessary for the applicants to apply for a variance. If the variance is denied, it would create a situation where the slope of the driveway would not meet standards and would require a variance.

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:** State law defines a hardship as “associated with and peculiar to the property itself,” and further states the hardship “cannot be self-imposed or economic.” A steep reverse grade driveway was necessary to access the buildable portion of the lot. As Sunrise Place cul-de-sac was graded and constructed it created slopes greater than 30% on Lot 15 and a steeper transition from the road to the lot. The addition of Sunrise Place should not be considered self-imposed hardship created by the applicants.

- (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%. The applicant’s property is unique however, because unlike many other properties, the slopes greater than 30% are not the natural slope and were created during the construction of the subdivision. In other words, the grading of Sunrise Place created a unique circumstance that only affects this property.

- (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%, and the need to create steep driveways and tall retaining walls. The slopes disturbed by the construction of the home is not a natural condition, and is a feature associated with the construction of the cul-de-sac. Granting the variance will allow the applicants 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:** Approval of a variance for the applicants 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% 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. The proposal submitted by the applicants, demonstrate they have made substantial efforts to minimize the impact construction will have on the slopes of their 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 retaining walls greater than 10 feet with the following condition:

1. The applicants will continue to work with staff to ensure the final plans submitted will meet the standards for building in the R-F zone, in particular reducing the downward slope of the driveway and show reasonable impact to slopes greater than 30% and final heights of retaining walls.

Steve Scoville, Architect for Mr. and Mrs. Kier, presented computerized 3-D plans for the proposed home. The presentation included 30% grades, driveway slope, driveway panels and front 25' setback.

Chair Monson opened and closed **PUBLIC HEARING** at 6:39 p.m.

Staff discussed the wall would be visible from the street. Mr. Scoville stated that the plan is to add plants to be a buffer for the wall.

Mr. Cheney stated that because the slope is not a natural slope and was created when the subdivision was created, the 30% slope requirement does not apply.

Staff and Commission members discussed what approach that they should take for issues that arise like this item. Staff recommended taking each item as it comes up.

Mr. Monson stated that he would like to see a buffer of vegetation against the large retaining wall.

Sharon Spratley made a motion to approve the Variance to the standards of the Bountiful City Land Use Ordinance to allow for retaining walls greater than 10 feet located at 1233 E Sunrise Place with the condition outlined by staff and the addition of a second condition to have extra vegetation to be used as a buffer for the retaining wall. This should also include in the Findings of Fact that occurred in the process of development that there is not an existing structure on the property. Richard Higginson seconded the motion. Voting passed 6-0 with Commission members Bell, Clark, Higginson, Hill, Monson, and Spratley voting aye.

4. **Consider approval of a Conditional Use Permit in written form for inside storage for a building construction material/office for Jim Miller Plumbing and Heating located at 220 W Center St, Randy Lewis representing Jim Miller, applicant.**

Sharon Spratley made a motion to approve the Conditional Use Permit in written form for inside storage for a building construction material/office for Jim Miller Plumbing and Heating located at 220 W Center St. Richard Higginson seconded the motion. Voting passed 6-0 with Commission members

Bell, Clark, Higginson, Hill, Monson and Spratley voting aye.

**5. Consider approval of a Conditional Use Permit in written form for a multi-family dwelling located at 33 W 400 South, Brian Knowlton, applicant.**

Jim Clark made a motion to approve the Conditional Use Permit in written form for a multi-family dwelling located at 33 W 400 South. Von Hill seconded the motion. Voting passed 6-0 with Commission members Bell, Clark, Higginson, Hill, Monson and Spratley voting aye.

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

1. Next Planning Commission meeting will be July 2, 2019.
2. Francisco Astorga has been hired for the Planning Director position and will start with Bountiful City on June 24, 2019.

Chair Monson ascertained there were no other items to discuss. The meeting was adjourned at 7:03 p.m.

  
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Clint Drake, Interim Bountiful City Planner