


**BOUNTIFUL CITY**  
**PLANNING COMMISSION AGENDA**  
**Tuesday, January 16, 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 December 19, 2017
3. Consider final approval for Renaissance Towne Centre, a Mixed Use Commercial Planned Unit Development, Phase 1 Plat 3, Bruce Broadhead, applicant.
4. **PUBLIC HEARING** – Consider amending the standards of the Downtown (DN) Zoning District found in Chapter 7 of the Bountiful Land Use Ordinance.
5. Consider approval of the Findings of Fact for a Variance from the driveway spacing and construction standards and yard coverage standards of the Bountiful City Land Use Ordinance for the properties located at 339 W 300 North and 349 W 300 North, Mark Lee and Mark Minnis, applicants.
6. Consider approval of the Findings of Fact for a Variance to the standards of the Bountiful City Land Use Ordinance to allow for encroachments on slopes greater than 30 percent and to allow for cuts and fills and retaining walls in excess of 10 feet in height for the property located at 2452 Cave Hollow Way, Daniel and Carri Fergusson, applicants.
7. Election of Chairman and Vice Chairman of the Planning Commission for 2018.
8. Planning Director's report, review of pending applications and miscellaneous business.

  
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Chad Wilkinson, City Planner

**Bountiful City  
Planning Commission Minutes  
December 19, 2017  
6:30 P.M.**

Present: Chair – Sean Monson; Vice Chair – Von Hill; Planning Commission Members – Jesse Bell, Tom Smith and Sharon Spratley; City Attorney – Clint Drake; City Planner – Chad Wilkinson; City Engineer – Paul Rowland; and Recording Secretary – Darlene Baetz  
Excused: City Council Representation – Richard Higginson

**1. Welcome and Introductions.**

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

**2. Approval of the minutes for December 5, 2017.**

Tom Smith made a motion to approve the minutes for December 5, 2017 as written. Von Hill seconded the motion. Voting passed 5-0 with Commission members Bell, Hill, Monson, Smith and Spratley voting aye.

**3. Swearing in of newly appointed Planning Commission Member - Jim Clark.**

Shawna Andrus, Bountiful City Recorder, swore in Jim Clark who replaced Dave Badham as a Planning Commission member.

**4. PUBLIC HEARING - Consider approval for a Variance from the driveway spacing and construction standards and yard coverage standards of the Bountiful City Land Use Ordinance for the properties located at 339 W 300 North and 349 W 300 North, Mark Lee and Mark Minnis, applicants.**

Chad Wilkinson presented the staff report. Mark Lee and Mark Minnis were present.

The applicants, Mark Lee and Mark Minnis, have requested a variance to the required driveway spacing and construction standards and the maximum yard coverage standards in order to construct a shared driveway between their properties located at 339 and 349 West 300 North in the RM-13 zoning district. The driveway has already been installed and was constructed without proper permits from the City. Mr. Lee recently constructed a permitted driveway on his property and a follow-up inspection on this driveway prompted the enforcement action that resulted in the application for variance. The zoning ordinance requires a minimum separation of 35 feet between driveways on the same property and a minimum 5 feet separation between driveways and the adjacent side property line. The proposed driveway is located approximately 24 feet from the existing driveways on both the Lee and Minnis properties and therefore does not meet the minimum 35 foot separation standard for either property. The driveway also does not meet the minimum 5 foot separation requirement between driveways on adjacent properties.

In addition, the construction of the driveway has caused both properties to violate the maximum yard and lot coverage standards of the Code. The front yard of the Lee property has approximately 67 percent impervious coverage which exceeds the 50 percent maximum. In addition, the property exceeds the maximum lot coverage standard of 60 percent. The Minnis property also exceeds the required lot coverage with the construction of the driveway. The calculations submitted by Mr. Minnis do not include a large covered deck at the back of the house which must be counted toward the lot coverage

standard. The calculations performed by staff and the applicants differ. However, with the inclusion of the covered deck, both staff and applicant calculations verify that the lot coverage standard is exceeded on both lots and that the front yard coverage standard is exceeded for the Lee property.

Mr. Minnis describes his lot as a corner lot. The lot does not meet the definition for a corner lot as it does not front on two streets. Therefore the lot should not be considered to be a corner lot in consideration of the variance request.

The applicants have requested an additional variance to the Engineering specifications for driveways related to required curb cut and driveway approach standards. This standard is not part of the land use ordinance and may not be varied by the Planning Commission. Any resident wishing to access the public right of way must do so with a City standard approach.

Staff recommends denial of the requested variance, based on analysis of the required review criteria from State law included in the findings and a review of the materials submitted by the applicant.

Mr. Minnis spoke about the damaged curb and the height of the crown of the street. Both applicants discussed the concerns with winter parking and wanted to solve the problems without causing issues with the look of the area.

Chair Monson opened the Public Hearing at 6:51 p.m.

Art Curry resides at 331 W 250 North. Mr. Curry had no problem with the driveway and spoke about extra parking needed for the small lots in this area.

Chair Monson closed the Public Hearing at 6:52 p.m.

Mr. Bell stated that he recognizes the need for extra parking but did not feel that there is flexibility with state code for this variance.

Ms. Spratley discussed the swearing in of Jim Clark and the guidelines that should be met for the Planning Commission members.

Mark Lee stated the need for the rules/codes to be applied to everyone.

Mr. Wilkinson reported that this item came about due to a follow-up inspection for an asphalt patch and noticed an illegal driveway. Changing the code is a policy decision by the City Council.

Mr. Rowland reported that the build up of the road is not uncommon due to the age of the road.

Mr. Smith asked if there was a compromise that could be made for this issue.

Staff stated that there was no available compromise and that previous requests of the same subject have been denied.

Von Hill made a motion that the Planning Commission deny the variance from the driveway spacing and construction standards and yard coverage standards of the Bountiful City Land Use Ordinance for the properties located at 339 W 300 North and 349 W 300 North as outlined by staff. Sharon Spratley seconded the motion.

The motion to deny the Variance passed 5-1 with Commission members Bell, Clark, Hill, Monson and Spratley voting aye and Commission member Smith voting nay.

5. **PUBLIC HEARING** - Consider approval for a Variance to the standards of the Bountiful City Land Use Ordinance to allow for encroachments on slopes greater than 30 percent and to allow for cuts and fills and retaining walls in excess of 10 feet in height for the property located at 2452 Cave Hollow Way, Daniel and Carri Fergusson, applicants.

Chad Wilkinson presented the staff report. Daniel and Carri Fergusson, applicants; AJ Green, legal counsel; and Kelly Anderson, designer were present.

The applicants requested a variance to allow for encroachments on slopes greater than 30 percent for the property and for cuts and fills and retaining wall greater than 10 feet in height for the property located at 2452 Cave Hollow Way in the R-F (Residential Foothill) zone. The proposed variance would allow for construction of a new addition to the home and for modifications to the existing driveway on site.

The existing home on the site was constructed in 1978 with a two car garage. The current request is to allow for construction of a three-car garage with two stories of living space above. The request also includes grading and site work necessary to lower the driveway in order to provide a less steep access to the property. The driveway is currently quite steep with an average slope of 19 percent and a maximum slope of 26 percent. The proposal would bring the maximum slope down to 10 percent and the average slope to 8 percent. The predominant issue is the size and extent of the area to be disturbed in order to lower the driveway and construct a new garage. The applicant proposed three-car garage is 42 feet by 20 feet and includes space for an elevator and a large staircase. Above the garage the applicant proposes two stories of living space measuring 42 feet by 28 feet. The proposed addition will nearly double the size of the structure. The addition encroaches into areas of 30 percent slope adjacent to the existing driveway.

The applicant also proposes a turnaround parking area near the proposed garage that will further encroach into slopes exceeding 30 percent. A stairway connecting the entrance of the home to this parking area further encroaches into the constrained area of the lot. In addition to the encroachments into steep slope areas the applicant proposes a series of major cuts on the site that will result in the need for tall retaining walls. The plan shows one wall approaching 17 feet in height. The proposed cuts will be up to 15 feet in height in order to accommodate the driveway and garage.

Staff recommends denial of the requested variance.

Mr. Green had a presentation on the safety of the steepness of the driveway and the accidents that have happened during bad weather. He showed similar driveway issues in the Cave Hollow Way, none that are as steep and as long as the Fergussons. He spoke of the proposed service elevator to be installed due to health issues and the elevation change would have little or no impact of views for other neighbors. Mr. Green discussed the Bountiful City Foothill (R-F) ordinance 14-4-117 (d)(5) citing the impact of the existing manmade driveway.

Mr. Anderson explained the damage to the railroad ties and the reinforcements and repairs needed to fix the wall. The Fergussons want to bring the property back to the natural grade after the proposed retaining wall is built. He stated that the retaining walls would be 10 feet, 15 feet and 5 feet.

Staff asked for clarification on the proposed grading. The proposed plans show that there would be significant grading done on this property. Mr. Fergusson stated that the trees would not be removed and

there would not be as significant amount of grading as the plans shown.

Mr. Rowland discussed the history of the 30% slope requirements for the Residential Foothill (R-F) zone. The 30% requirements predate the foothill zone. The City did place a moratorium on development above the Lake Bonneville level (Bountiful Blvd). The district court said that the City could not place a moratorium and stop development above a certain area but the City could make reasonable set of guidelines and requirements for that development. This subdivision is the result of the lawsuit and those agreements including the encroachment of 30%, the maximum grade of 15% and the cuts and fills. These requirements were listed as approval for this subdivision in 1976. Cave Hollow was developed in 1976 and 1977. In 1978, the requirements listed for development of this subdivision were codified into the Foothill ordinance and basically has remained the same. Not in the requirement at that time was the maximum height of retaining walls which can't have a cut or fill greater than 10 feet. The maximum road and driveway slope is 15% for this zone. No variance was received when the driveway was originally constructed.

Chair Monson opened the Public Hearing at 8:06 p.m.

Debbie Schluter resides at 2482 Cave Hollow Way. Mrs Schluter wanted to verify that the Fergussons have considered all the options including a heated driveway.

Vic Schluter resides at 2482 Cave Hollow Way. Mr. Schluter is worried about the encroachment of the construction to their property.

Chair Monson closed the Public Hearing at 8:13 p.m.

Mr. Wilkinson stated that any property line dispute and neighbors tree removal is a civil matter between the neighbors. He clarified the disturbance of the 30% slopes and the recommendation from staff is based on current plans that showed the multiple slope disturbances.

Mr. Fergusson stated that there is no drainage which is making the retaining wall fail.

Mr. Monson doesn't feel that this variance meets the state code and discussed the options for minimal disturbance and the grade of the driveway. He feels that the proposed plans have incorrect information that was presented.

Mr. Hill believes that there is a way to fix the problem with less impact.

Mr. Bell stated that there could be a solution without the hammerhead and a 3-car garage. Possible new garage designs.

Ms. Spratley discussed that standards are to be followed and they are not always what the Planning Commission likes. She doesn't like the hammerhead for the approval and the possible disturbance.

Mr. Drake stated what choices the Planning Commission has to complete this agenda item.

Commission Members and staff discussed the possible solutions for this project with the size of garage, the hammerhead, and garage steps.

Tom Smith made a motion to deny the Variance to the standards of the Bountiful City Land Use Ordinance to allow for encroachments on slopes greater than 30 percent and to allow for cuts and fills

and retaining walls in excess of 10 feet in height for the property located at 2452 Cave Hollow Way as outlined by staff with the suggestion to submit changes that staff would be able to approve. Jesse Bell seconded the motion. The motion to deny the Variance passed 6-0 in approval of the denied Variance with Commission members Bell, Clark, Hill, Monson Smith and Spratley voting aye and Commission member Smith voting nay.

6. Consider approval of the 2018 Planning Commission Meeting Calendar.

Von Hill made a motion to approve the Calendar with the cancelation of July 3 meeting. Jesse Bell seconded the motion. Voting passed 6-0 with Commission members Bell, Clark, Hill, Monson, Smith and Spratley voting aye.

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

Chair Monson ascertained there were no other items to discuss. The meeting was adjourned at 6:45 p.m.

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Chad Wilkinson, Bountiful City Planner

# Commission Staff Report

Item #3

**Subject:** ReFinal Subdivision Plat Approval for Renaissance Towne Centre, A Commercial Mixed Use Planned Unit Development, Phase 1, Plat 3

**Author:** Paul Rowland, City Engineer

**Date:** January 16, 2018



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## **Background**

The applicant, Bruce Broadhead, received final plat approval for this plat in October of 2017. That approved plat map was never recorded and since then some slight modifications to the plat have required the reconfiguration of some easements and the moving of a lot line. Mr. Broadhead is requesting reapproval of the plat in its current form.

## **Analysis**

The only change is that lot 10, the parcel containing the Maverick convenience store was expanded to include an area that was shown as common area on the previous plats. This was done to clarify an easement area that serves primarily as an ingress/egress lane and not a public utility easement serving the overall community. This change does not affect the site plan approval for the multistory mixed use building planned for lot 9, also known as pad A.

## **Department Review**

This item has been reviewed by the City Planner and City Engineer.

## **Significant Impacts**

This change has no significant impact.

## **Recommendation:**

Staff recommends that the Planning Commission forward a recommendation of approval to the City Council for final subdivision plat approval subject to the following conditions:

1. Complete any and all redline corrections.
2. Complete any necessary revisions to the development agreement.
3. Provide a current Title Report and pay all required fees.

## **Attachments**

1. Aerial photo
2. Copy of the PUD plat map

# Aerial Photo







# Commission Staff Report

Item #4

**Subject: Public Hearing-Potential Changes to DN Zoning District Standards found in Chapter 7 of the Bountiful Land Use Ordinance**

**Applicant:** Bountiful City

**Author:** Chad Wilkinson

**Date:** January 16, 2018



## **Background and Analysis**

At the Bountiful City Council meeting on October 10, 2017, the Council approved changes to the development standards for the Downtown (DN) Zoning District. As part of the motion approving these changes, the Council directed staff to schedule a combined work session with the Planning Commission to discuss potential additional refinements to the DN zoning standards. Specifically the Council desired to address concerns raised by property owners and other stakeholders related to development of multifamily residential structures in the downtown. The Commission and Council met in two separate work sessions on October 24 and December 12, 2017 to discuss additional potential revisions to the ordinance. Based on direction received during those discussions, staff has drafted potential refinements to the recently adopted DN standards.

The proposed changes deal primarily with building height and architectural standards. The major components of the proposed changes include the following:

- The maximum building height standards for properties along 100 West and 100 East have been increased to 45 feet. Maximum numbers of stories have been removed.
- Minimum landscape standards for multifamily developments have been reduced from 40 percent to 10 percent consistent with the remainder of the zone. The proposed revisions include additional landscaping on a per unit basis for multi-family residential and mixed use developments.
- Architectural standards have been revised. Instead of requiring “architectural feature consistent with single family residential” the proposed standards include required articulation at certain intervals and give minimum standards for depth and height of architectural features. The standards include articulation requirements for all buildings in the zone, as well as specific standards for multi-family development. As directed by the Council and Commission, the standards have been drafted with flexibility in mind. Standards provide a framework without prescribing a specific style or architectural theme.

Again, the attached draft ordinance contains the proposed revisions to the existing DN zoning standards, with changes to the existing ordinance indicated with strikethrough text (showing

deletions) and underline text indicating new text. At the public hearing, staff will provide a detailed discussion of each of the changes along with the reasoning behind the proposed change.

**Recommendation:**

It is recommended that the Planning Commission review the proposed changes to the Downtown Ordinance and hold a public hearing to allow for additional public comment. After receiving public input the Commission may take one of the following actions:

1. Request additional revisions and continue the item to a future meeting for further discussion
2. Forward the item to the City Council with a recommendation to approve the changes to the DN Zoning standards.
3. Forward the item to City Council with a recommendation of denial for the proposed changes.

**Attachments**

Proposed changes to the DN (Downtown) Zoning Standards

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## CHAPTER 7

### DN – DOWNTOWN

- 14-7-101 PURPOSE AND OBJECTIVES
- 14-7-102 AREA OF ZONE
- 14-7-103 PERMITTED, CONDITIONAL, AND PROHIBITED USES
- 14-7-104 MINIMUM LOT STANDARDS
- 14-7-105 YARD REQUIREMENTS
- 14-7-106 PROJECTIONS INTO YARDS
- 14-7-107 STRUCTURE HEIGHT
- 14-7-108 DISTANCE BETWEEN STRUCTURES
- 14-7-109 LANDSCAPING AND PERMISSIBLE LOT COVERAGE
- 14-7-110 PARKING, LOADING, AND ACCESS
- 14-7-111 SITE PLAN APPROVAL
- 14-7-112 OTHER REQUIREMENTS

#### 14-7-101 PURPOSE AND OBJECTIVES

The Downtown (DN) Mixed Use Zone is established to provide a district primarily for the preservation of the mixed use character of the commercial and residential uses in and adjacent to the Main Street downtown area, consistent with the provisions of the adopted Bountiful Historic Downtown Plan.

#### 14-7-102 AREA OF ZONE

Each area of Downtown zoning shall be at least four (4) acres in size.

#### 14-7-103 PERMITTED, CONDITIONAL, AND PROHIBITED USES

The following principal uses and structures, and no others, are allowed either as a permitted use (P) or by Conditional Use Permit (C) in the Downtown zone. Some uses may be expressly prohibited (N) in this zone. Any use not listed herein is also expressly prohibited. Properties fronting on 100 West or 100 East shall be limited to the residential uses allowed in the (DN) zone.

**Table 14-7-103**

Use	DN
Assisted Living Center	C
Bail Bonds	N
Banks, Credit Unions	P

Use	DN
Bar, Tavern, Drinking Establishment	N
Bottling, Canning, Food Production	C
Building/Construction Materials and Supplies w/ outside storage	N
Building/Construction Materials and Supplies w/o outside storage	C
Check Cashing, Title Loans	N
Construction Services w/ outside storage	N
Construction Services w/o outside storage	C
Convenience Stores	C
Dry Cleaner, Laundry Service	P
Fast Food Restaurant w/ drive-thru window	N
Fast Food Restaurant w/ pick-up	C
Fast Food Restaurant w/o drive-thru	P
Feed Lots, Animal Rendering, Animal Raising	N
Fire Arm/Shooting Range – Indoor	N
Fire Arm/Shooting Range – Outdoor	N
Food Preparation, Bakery	C
Funeral Parlor, Cemeteries, and Crematory Services	C
Gasoline Sales	N
General retail w/ outside storage	N
General retail w/o outside storage	P
Grocery Store	P
Hotels (Interior rooms)	P
Industrial Manufacturing	N
Kennels, Animal Boarding	N
Laundromat (Self-operated)	P
Mail Order/Online Distribution office w/ onsite storage	C
Medical/Dental Laboratory	N
Medical/Dental Office	P
Millwork, Cabinetry	P
Motels (Drive-up/exterior rooms)	N
Motorized Recreation	N
Multi-Family Residential – Stand alone, with frontage on Main Street	N
Multi-Family Residential – Stand alone without frontage on Main Street	C
Multi-Family Residential w/ Commercial Use on ground floor	C
Municipal Facility	P
Non-motorized Recreation, Pool, Gymnasium – Public or Private	P

Use	DN
Pawnshop, Secondhand Merchandise	N
Personal Services	P
Professional Services	P
Public/Private Assembly	C
Restaurant	P
Security Services	C
Self Storage Units or Warehouse w/o Office	N
Sexually Oriented Business, Escort Service	N
Single Family Dwelling,	P
Single Family Dwelling- property fronting on Main Street	N
Two Family Dwelling – New	C
Small engine/appliance repair	C
Tailor, Seamstress, Shoe repair	P
Tattoo Parlor	N
Tutoring, Dance, Preschool, Daycare	P
Vehicle Part Sales	N
Vehicle Repair	N
Vehicle Sales	N
Vehicle Salvage/Wrecking	N
Vehicle Service and Wash	N
Vehicle Storage – Indoor	C
Warehouse w/ office	N
Welding, Autobody, Machine Shop, Fiberglass, Painting	N

Accessory uses and structures shall be permitted in the Downtown Zone provided that they are incidental to and do not substantially alter the character of the permitted principal use of a main structure. Such permitted accessory uses and structures include, but are not limited to, the following:

- A. Accessory structures such as garages, carports, equipment storage buildings and supply storage buildings which are customarily used in conjunction with and incidental to a principal use or structure permitted in the (DN) Zone.
- B. Storage of materials used for the construction of a building, including a contractor's temporary office, provided that such use be located on the building site or immediately adjacent thereto, and provided further that such use shall be permitted only during the construction period and thirty (30) days thereafter.

**14-7-104 MINIMUM LOT STANDARDS**

The minimum area and street frontage for any lot or parcel in the Downtown Zone shall be as follows:

**Table 14-7-104**

<u>Use</u>	<u>Min. Lot Size</u>	<u>Min. Frontage and Width</u>
Commercial	8,000	50
Mixed-Use	8,000	50
Single Family	8,000	70
Two-Family and Multi-Family	10,000	50

- A. Lots with more than one (1) street frontage shall meet the minimum requirements along all frontages.
- B. An existing lot or parcel that does not meet the minimum requirements shall be considered a non-complying lot, and all proposed development on such lot or parcel requiring site plan review shall follow the process for non-complying sites and structures.
- C. A multi-family residential development that is not part of a vertical mixed use development shall meet the density requirements and development standards of the RM-13 subzone, except as set forth in this Chapter.

**14-7-105 YARD REQUIREMENTS**

A lot or parcel with a single family shall conform to the minimum setbacks of the R-4 subzone. Two-family dwellings and multi-family dwellings shall meet the setback criteria of the RM-13 subzone. All other uses, including mixed uses, shall meet the following requirements:

- A. Front and Street Setbacks.
  - 1. Along 100 West and 100 East any building shall have a minimum building setback of 20 feet and a maximum setback of twenty-five (25) feet from any front property line and/or any property line abutting a public street
  - 1.2. \_\_\_\_\_
  - 2.3. \_\_\_\_\_ Along Main Street any building shall be located within ten (10) feet of the street property line. Plazas, outdoor eating areas, and other pedestrian oriented site amenities shall be considered part of the building for setback purposes.
  - 3.4. \_\_\_\_\_ Along 500 South, 400 South, 300 South, 200 South, 100 South, 100 North, 200 North, or 300 North and 400 North any building shall be setback at

least ten (10) feet and not more than twenty (20) feet from the street property line.

5. Along Center Street, any building shall be setback at least five (5) feet and not more than ten (10) feet from the street property line.

- B. Side Yard. Except as provided otherwise in this chapter, each lot or parcel shall have a minimum building setback of ten (10) feet from an interior side property line. Any lot or parcel that fronts onto Main Street shall have no interior side yard setback except as required by the International Building Code.
- C. Rear Yard. Except as provided otherwise in this chapter, each lot or parcel shall have a minimum building setback of ten (10) feet from a rear property line.
- D. Yard Abutting Residential Lots. Where property abuts an existing single family residential zone, the minimum building setback shall be ten (10) feet on the abutting side.
- E. Accessory Structures. An accessory structure shall meet all of the setback requirements of a principal structure. An accessory structure that does not require a building permit, according to the International Building Code (IBC), may be located in a side or rear setback area only if all of the following conditions are met:
  - 1. The accessory structure is not within a front or street yard setback and is located more than ten (10) feet from any main building on the same or adjacent property.
  - 2. The accessory structure has no openings on the side which is contiguous with the property line, and the walls of said building which are adjacent to the property line have a fire retardant rating as specified by the IBC.
  - 3. The accessory structure is designed such that all roof drainage is discharged onto the lot or parcel on which it is erected.
- F. Residential Uses.

It is the requirement of Bountiful City that multiple family developments reflect a sense of proportion. Proportion requires that the development be designed in such a manner that each unit receives a reasonable and approximately proportionate share of the open space, landscaping, and other benefits of the site. Locating units in such a way that benefits of the site fall primarily to one unit or a few units, and not to others, is prohibited. Depending upon topography,



property dimensions and site configuration, it is possible that this requirement may affect the number of units that can be physically located on a lot or parcel. The Planning Commission and City Council are granted reasonable discretion in administering the proportionality requirement, and may modify yard setback requirements by up to twenty (20) percent subject to a finding that such modification will benefit all units more equally than would be possible if the standard requirement was applied.

#### **14-7-106 PROJECTIONS INTO YARDS**

- A. The following structures may be erected on or project into any required yard, except that they shall not obstruct a required driveway or pedestrian access:
1. A fence or wall in conformance with this Ordinance.
  2. Landscape elements, including: trees, shrubs, and other plants.
  3. Necessary appurtenances for utility service as long as they are attached to a permitted structure and do not protrude more than two (2) feet into a required setback.
- B. The structures listed below may project into a minimum front or rear yard not more than four (4) feet, and into a minimum side yard not more than two (2) feet, except that they may not obstruct a required driveway or pedestrian access:
1. Cornices, eaves, belt courses, sills, buttresses, or other similar architectural features.
  2. Stairways, balconies, door stoops, fire escapes, awnings
  3. Planter boxes or masonry planters not exceeding twenty-four (24) inches in height.
  4. A covered entry or porch used for the protection of pedestrians entering or leaving a building, provided said structure is not more than one story in height and is entirely open on at least three (3) sides.
- C. Buildings that front onto Main Street and that are built within ten (10) feet of the front property line may have canopies with business identification sign area if the following criteria is met:
1. The canopy may protrude a maximum of six feet (6') into the Main Street right-of-way, over areas of sidewalk.
  2. The canopy shall not come within seven feet (7') of any parking stall, drive lane, or other portion of the right-of-way used for vehicle access.
  3. The total combined length of the canopy or canopies shall not exceed two thirds (2/3) of the building width.
  4. The maximum height of the canopy shall not exceed five feet (5').
  5. Off-premise signs are expressly prohibited.

6. Canopy sign copy area shall be a maximum of thirty-two (32) sq ft per property.

#### 14-7-107 STRUCTURE HEIGHT

Any lot or parcel with a single family dwelling shall conform to the maximum height requirements of the R-4 subzone. All other uses, , shall comply with the following height standards:

- ~~A.~~ For buildings located within ~~400-200~~ feet of the street property line on 100 West and 100 East: Building height shall not exceed ~~35-45~~ feet ~~or 2 stories in height measured at the average grade. Buildings may be constructed one (1) additional foot in height for each additional ten (10) feet t of setback from 100 East and 100 West measured at the average grade as measured from the street property line.~~
- ~~B.~~ Buildings located at least 100 feet from the street property line of 100 West and 100 East shall not exceed three (3) stories or 45 feet in height ~~measured at the average grade . Buildings may be constructed one (1) additional foot in height for each additional ten (10) feet of setback from 100 East and 100 West as measured from the right of way.~~
- ~~C.~~A. \_\_\_\_\_ Buildings located at least 200 feet from 100 West and 100 East shall not exceed 55 feet ~~or 4 stories~~ in height measured at the average grade.
- ~~D.~~B. \_\_\_\_\_ Maximum height for public and quasi-public buildings shall be approved through the site plan approval process by the land use authority.
- ~~E.~~C. \_\_\_\_\_ Chimneys, flagpoles, towers, steeples, and similar accessory and architectural elements not used for human occupancy are excluded in determining height, however, the City may limit the height of any protrusion that is found by the City Council to be a public nuisance.
- ~~F.~~D. \_\_\_\_\_ In no case shall the area covered by roof mounted equipment exceed twenty percent (20%) of the roof area. Roof mounted equipment shall be setback from the edge of the roof a minimum of 1 foot for every foot of height. If mechanical equipment is located within roofed and enclosed structures, these structures shall not exceed the maximum height for the zone whether or not these areas are designed for human occupancy.

#### 14-7-108 DISTANCE BETWEEN STRUCTURES

A lot or parcel with a single family dwelling shall conform to the minimum building separation requirements of the R-4 subzone. A two-family dwelling or multi-family dwelling shall meet the minimum building separation criteria of the RM-13 subzone. For all other uses, the minimum separation between structures shall be as required by the International Building Code.

#### 14-7-109 LANDSCAPING AND PERMISSIBLE LOT COVERAGE

A. A lot or parcel with a single family dwelling shall follow the lot coverage requirements of the R-4 subzone. A lot or parcel with a two-family ~~or multi-family~~ dwelling shall conform to the lot coverage criteria of the RM-13 subzone. All others, including mixed-use developments, shall conform to the following criteria, in addition to any other requirements of this Title:

1. All landscaping shall be sprinkled and planted with substantial live plant material for the purpose of buffering, screening, and beautifying the site. At plant maturity, the landscaping should represent, as a minimum standard, compatibility with surrounding developed properties and uses and must be permanently maintained by the owner or occupants.
2. With the exception of properties fronting on Main Street a minimum ten (10) feet wide landscape buffer shall be required along all frontage areas not occupied by drive accesses.
3. A minimum ten (10) feet wide landscape buffer shall be established adjacent to a residential property.
4. Parking, loading, and drive areas shall have a minimum five (5) feet wide landscape buffer when located adjacent to a side or rear property line, except for landscape buffering required between residential uses.
5. Parking areas shall be landscaped as set forth in this Ordinance.
6. Approved landscaping must cover a minimum of ten (10) percent of the development site exclusive of any parkstrips in a public right-of-way. In addition to the minimum 10 percent required for all development, mixed use and multifamily uses shall provide an additional 50 square feet of landscaping per residential unit.
7. Landscaping shall also be installed in all parkstrips to the same standards as other on-site landscaping. Asphalt, concrete, bricks, pavers, railroad ties, rocks, gravel, and other non-vegetative material is not allowed in the parkstrip area between the curb and sidewalk.

B. During the site plan approval process, the City may require more or less landscaping consistent with the provisions of the adopted Historic Downtown Plan.

**14-7-110 PARKING, LOADING, AND ACCESS**

A. Each lot or parcel in the (DN) Zone shall have vehicle parking, loading, and access designed to meet the requirements of this Ordinance. In addition to the

standards of Chapter 18 of the Land Use Ordinance, the following shall apply to properties in the DN Zoning district.

- a. Off street parking is not permitted in the front setback area and/or between the street and building. Parking shall be located to the side or rear of the building.
- b. Parking for buildings fronting on Main Street shall be located completely behind the principal structure.
- c. Required guest parking stalls shall be located in dedicated off-street parking spaces. Driveways and areas located in front of garage doors (for example in townhome style developments) shall not be used to satisfy minimum guest parking requirements.

#### **14-7-111 SITE PLAN APPROVAL**

Except for single family dwellings, site plan approval shall be required for any development in the (DN) Zone as set forth in this Title.

#### **14-7-112 OTHER REQUIREMENTS**

- A. Signs. Any sign erected in the (DN) Zone shall conform to the sign provisions of this Title. Single family and two family dwellings shall conform to the criteria for the R-4 subzone, and multi-family uses shall conform to the criteria for the RM-13 subzone. All others shall conform to the criteria for the DN zone. Pole signs shall not be permitted.
- B. Uses Within Buildings. Any commercial use permitted in the (DN) Zone shall be conducted entirely within a fully enclosed building, except as provided in subsections 1 and 2 below.
  1. Outdoor Display of merchandise for sale in the downtown area. Businesses located in buildings in the (DN) Zone that have setbacks less than three (3) feet from the public right-of-way may display in the public right-of-way, subject to the following terms and conditions:
    - a. Any display of merchandise on the sidewalk may not exceed three (3) feet into the public right-of-way from the property line of the business, except during the annual "Sidewalk Days" celebration. There may be no display of merchandise in the planter boxes in the public right-of-way.

- b. During the winter months, a display may not impede snow removal from the sidewalk.
  - c. The display shall not exceed twenty-five percent (25%) of the width of the lot, parcel, or business. However, businesses with less than forty (40) feet of width may have a display not to exceed ten (10) feet in width.
  - d. Only merchandise sold inside the business may be displayed outside.
  - e. No outdoor display shall exceed six (6) feet in height.
  - f. Each display shall be taken down at the end of each business day. The merchant shall be solely responsible for items displayed.
  - g. Each display shall not create a hazard, sight distance, or other problem to pedestrians on the sidewalk or to drivers on the street.
  - h. Displayed merchandise shall not obscure or interfere with any official notice, public safety sign, or device.
2. Any business not listed in subsection 1 may include the outdoor display of merchandise for sale only if all of the following conditions are met:
- a. The outdoor display of merchandise shall not be located upon any sidewalk, walkway, driveway, or within any public right-of-way nor shall it interfere with pedestrian or vehicular movement or with safe and proper ingress and egress of pedestrian traffic.
  - b. The outdoor display of merchandise shall not reduce the amount of off-street parking below that which is required for the associated commercial uses on the premises.
  - c. No item shall be displayed outdoors except for those lawfully displayed and sold inside the business or businesses located on the property. No hazardous and/or flammable materials (such as antifreeze, kerosene, poisons, pesticides and other similar items) may be displayed outdoors.
  - d. The aggregate outdoor display area shall not exceed twenty-five (25) percent of the linear frontage of the store front or 10 linear feet, whichever is greater. A business located on a corner shall be considered as having two (2) store fronts.

- e. No outdoor display shall exceed six (6) feet in height.
- f. A maximum of fifty (50) percent of the aggregate outdoor display area may be located in any required landscaping.
- g. Items shall be displayed outdoors only during the hours that the business conducting the display is open to the public. Live plant material shall be exempt from this requirement.
- h. Additional signs, beyond those allowed by this Title, shall not be allowed as part of the outdoor display and sales area.
- i. Outdoor displays for special sales or for one of a kind items which would exceed any of these requirements may be granted a special permit by the Planning Director for a period not to exceed fourteen (14) days provided such special displays do not create parking, access, or traffic hazards.

C. Structure Design and Materials.

Any structure, except for single and two family dwellings, shall meet the minimum design criteria as set forth in this Title. In addition, the following shall apply.

- 1. Exteriors shall be maintenance free wall material such as high quality brick, natural stone, weather resistance stucco or masonite type material, or non-wood siding. Stucco, masonite or siding may not exceed fifty (50) percent of the exterior.
- 2. Each residential unit~~s~~ shall have some private outdoor space in the form of a balcony or patio.
- 3. The primary entrance of a building must be oriented to face a street, **public** plaza or approved pedestrian-way. Ground floor residential units shall have the primary entrance oriented toward the street.
- 4. All buildings must meet the ground with some form of base element or detailing to visually connect the building to the landscape. The base element must be a material compatible with the remainder of building.
- 5. Blank walls shall be prohibited on street-facing facades. At least 50 percent of the width of a new or reconstructed first story building wall facing a street shall be devoted to pedestrian entrances, display windows or windows affording views into retail, office, restaurant, or lobby space.

or windows affording views into retail, office, restaurant, or lobby space. All development shall provide ground floor windows on the building facade and adjacent to a public or private street. Darkly tinted windows and mirrored windows are prohibited as ground floor windows.

6. To preclude large expanses of uninterrupted building surfaces, exterior elevations shall incorporate design features such as offsets, balconies, projections, or similar elements along each face of the building facing a public right-of-way or public plaza. Along the vertical face of the structure, offsets shall occur at a minimum of every 20 feet by providing any two of the following:

(1) Recesses (elevated decks, patios, entrances, etc.) with a minimum depth of four (4) feet, or

(2) Extensions (elevated decks, patios, entrances, floor area, etc.) with a minimum depth of four (4) feet, or

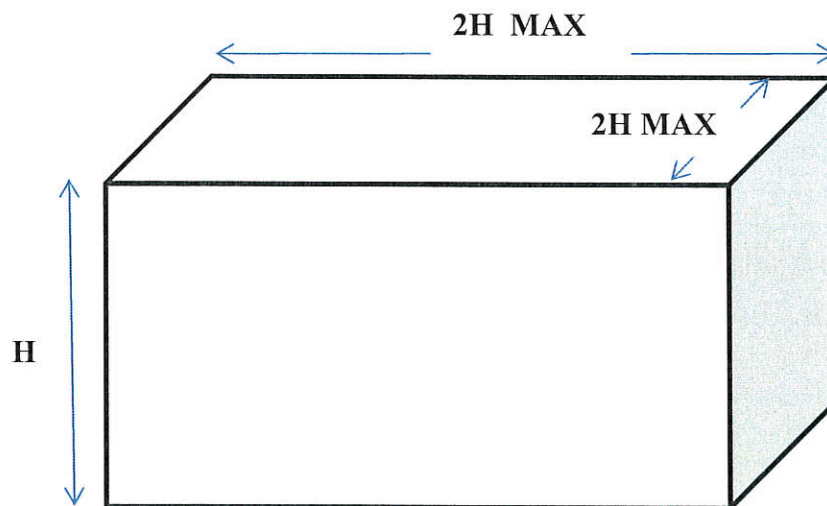
(3) Offsets or breaks in roof elevations of three (3) or more feet in height.

3. 6. Buildings with parking located on the ground floor within the footprint of the structure shall incorporate design features into street facing facades that are consistent with the remainder of the building design and that are pedestrian oriented. Features shall include elements typical of a front façade, including doors, false windows, planters, and/or architectural details providing articulation. False windows shall be integrated into the framing of the building and shall not consist of surface mounted features such as tacked on display cases. Required venting for parking areas, including louvered openings, shall not be located along a street facing façade.

4.7.

5.8. The overall width or depth of a multi-family residential building shall not exceed twice the building height. See Figure 14-7-112-C.

**Figure 14-7-112-C**



~~6. — Multifamily residential buildings located along 100 East and 100 West shall incorporate architectural features consistent with single family residential design such as pitched roofs, gable roofs, dormers, overhanging eaves, etc., into the design of the structures.~~

D. Neighborhood Compatibility.

Each structure, except for existing single and two family dwellings, shall be designed consistent with the adopted Historic Downtown Bountiful Master Plan, particularly with regard to building height, architecture, landscaping, and building mass.

E. Trash Storage. No trash, used materials, wrecked or abandoned vehicles, or equipment shall be stored in an open area. With the exception of single family and two family dwellings, each development in the (DN) Zone shall be required to have adequate, on-site, screened refuse containers maintained in a location approved as part of the site plan.

F. Walls and Fences.

Any wall or fence erected around a commercial development or mixed use development shall comply with the requirements of the (C-G) zone. Any multi-family development shall comply with the requirements for the RM-13 subzone. Any single family and two family developments shall comply with the provisions of the R-4 subzone.

#### **14-7-120 PERMITTED ADJUSTMENTS TO REQUIRED PARKING**

A. Downtown Parking District Defined. The Downtown Parking District consists of those properties located within the (DN) Zone.

B. Proximity of Parking to Use. Required parking spaces for residential uses must be located on site. Required parking spaces for nonresidential uses must be located on site or in parking areas within five hundred feet (500') of the development site property boundary. Off-site nonresidential parking is allowed if the following documentation is submitted in writing to the land use authority as part of a building or zoning permit application or land use review:

1. The names and addresses of the uses and of the owners or tenants that are sharing the parking;
2. The location and number of parking spaces that are being shared;



3. An analysis showing that the parking area will be large enough for the anticipated demands of both uses; and
  4. A legal instrument such as an easement or deed restriction that guarantees access to the parking for both uses.
- C. Joint Use Parking. Joint use of required parking spaces may occur where two (2) or more uses on the same or separate sites are able to share the same parking spaces because their parking demands occur at different times. Joint use of required nonresidential parking spaces is allowed if the following documentation is submitted in writing to the land use authority as part of a building or zoning permit application or land use review:
1. The names and addresses of the uses and of the owners or tenants that are sharing the parking;
  2. The location and number of parking spaces that are being shared;
  3. An analysis showing that the peak parking times of the uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses; and
  4. A legal instrument such as an easement or deed restriction that guarantees access to the parking for both uses.
- D. No parking calculation which includes the parking areas owned by the Bountiful Redevelopment Agency gives any right of possession, any real estate interest, or contract right or right of way on any Redevelopment Agency property.

**BOUNTIFUL CITY PLANNING COMMISSION  
FINDINGS OF FACT AND CONCLUSIONS**

**APPLICANT:** Mark Lee and Mark Minnis

**APPLICATION TYPE:** Request for a variance to the required driveway spacing and construction standards and the maximum yard coverage standards

**I. DESCRIPTION OF REQUEST:**

The applicants, Mark Lee and Mark Minnis, have requested a variance to the required driveway spacing and construction standards and the maximum yard coverage standards in order to construct a shared driveway between their properties located at 339 and 349 West 300 North in the RM-13 zoning district.

**II. LAND USE ORDINANCE AUTHORITY:**

Section 14-2-111 authorizes the Planning Commission as the review body for variance requests related to driveway spacing and lot coverage standards of the Code.

**III. APPEAL PROCEDURE:**

Bountiful City Land Use Ordinance section 14-2-108 states that an applicant, board or officer of the City, or any person adversely affected by a Land Use Authority's decision administering or interpreting a land use ordinance or ruling on a request for a variance may, within fourteen calendar days of the written decision, appeal that decision to the Appeal Authority. No other appeals may be made to the Appeal Authority.

The appeal must be in writing and specifically allege that there is an error in an order, requirement, decision or determination by the Land Use Authority. The appellant shall state every theory of relief that it can raise in District Court.

**IV. SUMMARY OF EVIDENCE:**

- A. The basic facts and criteria regarding this application are contained in the staff report, which is attached as **Exhibit A** and is incorporated herein.
- B. The minutes of the public meeting held by the Planning Commission on **Tuesday, December 19, 2017** which are attached

as **Exhibit B** summarize the oral testimony presented and are hereby incorporated herein.

**V. FINDINGS OF FACT:**

Based upon the information presented and oral testimony given at the public hearing the Planning Commission made the following findings:

- A. The literal enforcement of the land use ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinance;**

The purposes of the spacing standards include but are not limited to (1) regulating the number of driveways on the street in order to minimize traffic conflicts; (2) preserving open space, particularly in front yards; and (3) limiting congestion and providing for on-street parking. The maximum lot and yard coverage standards are in place to ensure that Bountiful neighborhoods maintain landscaping to allow for storm water permeation in order to decrease runoff and to beautify neighborhoods. This is particularly true for the standards regulating the front yard coverage. One of the clear purposes of limiting the number and size of driveways and providing a maximum yard coverage standard is to maintain adequate landscape areas in front yards for aesthetic reasons. Limits on number and spacing of driveways are necessary to carry out the purposes of the ordinance.

- B. There are special circumstances attached to the property that do not generally apply to other properties in the district;**

The applicants have indicated the need for additional parking spaces to facilitate the parking of guests and vehicles off-street and to decrease the need for shuffling vehicles. Mr Lee was recently granted a permit for a wider driveway and Mr. Minnis was previously granted a variance to allow for an attached two car garage which provided for additional off street parking. The applicants both have parking that meets the minimum standards of the Code without the additional driveway. The number of vehicles a property owner chooses to keep on their property is a self-imposed condition. In this case both properties contain adequate space for off street parking meeting the minimum standards of the Code for single family dwellings without the additional driveway.

**C. Granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the district;**

The applicants have been granted permits and previous variance approvals that provide additional parking on their properties. Each lot in the City is constrained to a certain extent by its size and shape. In this case, the lots are simply not large enough to accommodate the additional parking that is being requested and still meet the Code. There are many similarly zoned properties in the City that are not allowed additional driveways because of size and spacing and coverage standards. A second driveway is a right that is contingent on a property being able to meet the spacing standards of the Code.

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

One of the purposes of spacing standards for driveways is to preserve open space in front yards. Granting a variance to allow for an additional driveway will reduce landscaping and open space in the front yard. The Code requires that at least 50 percent of front yard areas to be landscaped. Reducing landscaping in the front yard of lots that are already constrained is not consistent with the public interest.

**E. The spirit of the land use ordinance is observed and substantial justice done**

The land use ordinance includes minimum driveway spacing standards in order to preserve open space, provide for on street parking, reduce congestion and minimize traffic conflicts. Approving a variance to these standards and to the maximum lot coverage standards is not consistent with the spirit of the land use ordinance.

**VI. DECISION AND SUMMARY**

The Planning Commission denied the variance to the minimum driveway separation standards and lot coverage standards by a vote of 5-1.

FINDINGS OF FACT APPROVED BY THE Bountiful City Planning Commission this \_\_\_\_\_ day of January, 2018.

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Sean Monson, Chair  
Bountiful City Planning Commission

**BOUNTIFUL CITY PLANNING COMMISSION  
FINDINGS OF FACT AND CONCLUSIONS**

**APPLICANT:** Daniel and Carri Fergusson

**APPLICATION TYPE:** Request for a variance to allow for encroachments on slopes exceeding 30 percent and to allow for cuts and fills and retaining walls greater than 10 feet in height.

**I. DESCRIPTION OF REQUEST:**

The applicants, Daniel and Carri Fergusson, has requested a variance to allow for encroachments on slopes greater than 30 percent for the property and for cuts and fills and retaining wall greater than 10 feet in height for the property located at 2452 Cave Hollow Way in the R-F (Residential Foothill) zone. The proposed variance would allow for construction of a new addition to the home and for modifications to the existing driveway on site.

**II. LAND USE ORDINANCE AUTHORITY:**

Section 14-2-111 authorizes the Administrative Committee as the review body for variance requests within the R-F zone related to disturbance of slopes exceeding 30 percent and retaining walls and cuts and fills 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.

**III. APPEAL PROCEDURE:**

Bountiful City Land Use Ordinance section 14-2-108 states that an applicant, board or officer of the City, or any person adversely affected by a Land Use Authority's decision administering or interpreting a land use ordinance or ruling on a request for a variance may, within fourteen calendar days of the written decision, appeal that decision to the Appeal Authority. No other appeals may be made to the Appeal Authority.

The appeal must be in writing and specifically allege that there is an error in an order, requirement, decision or determination by the Land Use Authority. The appellant shall state every theory of relief that it can raise in District Court.

#### IV. SUMMARY OF EVIDENCE:

- A. The basic facts and criteria regarding this application are contained in the staff report, which is attached as **Exhibit A** and is incorporated herein.
- B. The minutes of the public meeting held by the Planning Commission on **Tuesday, December 19, 2017** which are attached as **Exhibit B** summarize the oral testimony presented and are hereby incorporated herein.

#### V. FINDINGS OF FACT:

Based upon the information presented and oral testimony given at the public hearing the Planning Commission made the following findings:

- A. **The literal enforcement of the land use ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinance;**

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. While there may be an appropriate disturbance to allow for a reasonable modification to the driveway, the construction of a large three car garage with two stories of living space above along with a large turn around area does not seem to be in harmony with the goals of the RF zoning district which state "any alteration of sensitive land areas is the minimum necessary to allow for reasonable use of the property." The applicant could lower the driveway with a smaller garage and still accomplish the modification with less of an impact.

- B. **There are special circumstances attached to the property that do not generally apply to other properties in the district;**

Many of the properties in the zone are faced with similar circumstances that limit size of building area and that require steep and narrow driveways. While there may be an appropriate disturbance to the slope to enable construction of a less steep driveway, the proposal does not seem to be the minimum disturbance necessary to accomplish this objective.

- C. **Granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the district;**

The original approval of the home on the lot allowed for construction of a reasonably sized single family dwelling on the property while maintaining a minimal disturbance to the hillside. The proposed variance is not necessary for use and enjoyment of the property as the owner already has use of the property with the existing home.

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

The original approval was consistent with development in the neighborhood, and allowed for use of the property. The applicant has not shown that there is no other reasonable or feasible alternative with less impact to the slope areas.

- E. The spirit of the land use ordinance is observed and substantial justice done**

The purpose of the land use ordinance that requires improvements be located on slopes less than 30% and retaining walls less than 10 feet tall is to preserve the hillside and manage runoff and erosion on properties located in the foothills. The proposed variance disturbs the slopes beyond the minimal amount necessary. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the planning commission may not find an unreasonable hardship if the hardship is self-imposed or economic. Since the applicant already has reasonable use of the property, the proposed addition constitutes a self-imposed hardship. Any proposal to change the slopes on the property should be the minimum necessary to allow for reasonable use of the property.

## **VI. DECISION AND SUMMARY**

The Planning Commission denied the variance to allow for encroachments on slopes exceeding 30 percent and to allow for cuts and fills and retaining walls greater than 10 feet in height by a vote of 6-0.

FINDINGS OF FACT APPROVED BY THE Bountiful City Planning Commission this \_\_\_\_\_ **day of January, 2018.**

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Sean Monson, Chair  
Bountiful City Planning Commission