

Approved Minutes of the  
**BOUNTIFUL CITY PLANNING COMMISSION**  
**October 20, 2020**  
**6:30 p.m.**

Present:            Commission Chair            Sean Monson  
                         Commission Members        Sam Bawden, Jesse Bell (vice-chair), 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  
                         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 October 6, 2020.**

Commissioner Spratley made a motion to approve the minutes for October 6, 2020 with the correction on page 2 line 44 “~~drafter~~ *drafted*”. Commissioner Clark seconded the motion. Voting passed 7-0 with Commission members Bawden, Bell, Clark, Harris, Jacobs, Monson, and Spratley voting aye.

**3. Consider approval of Findings of Facts of a Variance to allow construction of a single-family dwelling on slopes 30% or greater, located at 1874 Ridge Point.**

Commissioner Jacobs made a motion to approve the Findings of Fact of a Variance to allow construction of a single-family dwelling on slopes 30% or greater, located at 1874 Ridge Point. Commissioner Spratley seconded the motion. Voting passed 7-0 with Commission members Bawden, Bell, Clark, Harris, Jacobs, Monson, and Spratley voting aye.

**4. PUBLIC HEARING – Consider forwarding a recommendation to the City Council amending the Bountiful City Land Use Code for Accessory Structures in the residential zone.**

Planning Director Francisco Astorga presented the staff report.

The Planning Department recommended that the Commission review the proposed amendment, hold a public hearing, and consider forwarding a positive recommendation to the City Council. The Planning Department started working on this item specifically due to a building permit that was issued in March 2020. That permit was appealed by an adjacent property owner and in July 2020 an appeal board hearing was held. The building permit was for a detached garage. Bountiful City’s appeal authority is an Administrative Law Judge. The Administrative Law Judge interpreted the City code differently than the City and determined that the building permit did not comply with two specific provisions; that it was over 10% buildable lot area requirement as specified in the zoning code, and violated certain setback requirements. The proposed land use code text amendment will bring clarity to the setback requirements portion of the code. It does not address the 10% buildable lot area provision. The City has reviewed the impacts of the Administrative Law Judge’s decision on existing sites and structures and has found that the decision will impact a significant number of sites and

1 structures throughout the City. Director Astorga stated the Planning Department staff found that the  
2 City there are existing accessory structures that would now be considered illegal because of the  
3 administrative law judge’s decision. He presented several sites that also had similar structures and  
4 noted that these are just a few and not all that are found in the City. He noted that the proposed  
5 amendment will bring clarity and consistency to accessory structures in this code. Staff recommends  
6 that the Planning Commission forward a positive recommendation to the City Council for approval.  
7

8 Commissioner Bawden asked if staff had reviewed properties with the proposed change to the code.  
9 Staff noted that most properties would be compliant with the code under the change. There is a small  
10 number of the studied properties that would not comply even with the proposed change.  
11

12 Chair Monson noted that if the Commission does not feel that the proposed language is acceptable  
13 then the Commission needs to find another option.  
14

15 Commissioner Jacobs said he was concerned about the wording “An accessory structure shall meet  
16 all of the setbacks of a primary structure, *or* it shall be located behind...” and feels that it should be  
17 “and”. Mr. Astorga and City Attorney Clint Drake clarified that it is two standards, and the proposed  
18 amendment doesn’t change that.  
19

20 Commissioner Harris asked what the impact would be if the appealed detached structure was to be  
21 moved. Mr. Astorga said the structure could be built with similar same square footage and footprint,  
22 would be closer to the street, and would be more prominent as it is closer to the street and would be  
23 perceived as a higher height. He said the amendment should not be about the property which has  
24 been appealed but what the Commission considers is best for the entire city.  
25

26 Chair Monson opened the **PUBLIC HEARING** at 7:00 p.m.  
27

28 Greg Robertson (Attorney representing the Jim and Julie Williams) noted that the Williams detached  
29 garage has gone thru the proper approval process and built the structure at great expense. The  
30 structure would be more imposing in height and would impede the neighbors view more if it should  
31 be removed and rebuilt within a new buildable area.  
32

33 Emily Christenson (2502 South 150 East) noted that she is the neighbor that has brought this appeal  
34 forward and is opposed to the change in the code. She discussed the current City code and is  
35 concerned about the proposed change.  
36

37 Ryan Tingey (2502 South 150 East) said he is the neighbor that has brought this appeal forward and  
38 is opposed to the change in the code. He discussed the current City code and has a concern about the  
39 structure being in the side yard.  
40

41 Sandra Mangum (190 West 1800 S) feels that the structure is in violation of the law and is an eye  
42 sore.  
43

44 Ms. Balle (160 West 1950 S) noted her concern about the change in the code.  
45

46 Dave Bennett (1784 South Davis Blvd) said that he is opposed to the change in the code.  
47

48 Wade Tingey (Farmington City) said he was not from Bountiful and doesn’t support the change.

1  
2 Matt Webre (2585 South 100 East) talked about the code and overcrowding of the neighborhoods.  
3 We should look at both sides, those buildings that are in compliance and those that are not in  
4 compliance.

5  
6 City Planner Curtis Poole read an email that was received in the Planning office from Brock Anderson  
7 (Bountiful resident) who noted concern about the change in code and feels the current code makes  
8 sense to the structures.

9  
10 *Chair Monson and City Attorney Clint Drake temporarily left the meeting.*

11  
12 Commissioner Bell assumed his role as Planning Commission Vice Chair Bell and asked if there  
13 were any other letters to be read. Director Astorga noted that the City Council received several other  
14 letters/emails that were forwarded to the Planning Department but did not request that they be read  
15 at this Public Hearing.

16  
17 Vice Chair Bell closed the **PUBLIC HEARING** at 7:26 p.m.

18  
19 Vice Chair Bell asked for a 5-minute recess at 7:33 p.m.

20  
21 *Chair Monson and City Attorney Clint Drake returned to the meeting.*

22  
23 The meeting was reconvened at 7:44 p.m.

24  
25 Chair Monson said that he just learned that the law firm he works for has been retained by Bountiful  
26 City involving the lawsuit. Chair Monson stated that he will not be working on this lawsuit and has  
27 no knowledge about the lawsuit. City Attorney Drake asked Chair Monson if he could be fair and  
28 impartial with this agenda item. Chair Monson noted that he could be fair and impartial and would  
29 like to continue with the meeting.

30  
31 City Attorney Drake stated that the Bountiful City Planning Department has not changed their  
32 position regarding the interpretation of the code and noted the change is intended to bring clarity and  
33 be consistent with the City's historic interpretation. He said there are not unethical or illegal motives  
34 from the City and information regarding the appeal hearing information is available on the city  
35 website. He discussed the 10% permitted use and 15% conditional use maximum standards for  
36 accessory structures that are currently in the code.

37  
38 City Planner Poole discussed the differences and similarities including side yard setbacks, heights,  
39 building separation of other cities in Utah and noted that Bountiful City is in line with other cities.  
40 Murray City is they only city that was surveyed that has aesthetics as a requirement in natural or earth  
41 tones. Mr. Drake said that building materials are not regulated by the City and the City doesn't  
42 enforce CC&Rs (covenants, conditions, and restrictions) or HOA (homeowner's associations)  
43 matters. He said such an option may exist, but enforcement would be through a private action.

44  
45 Chair Monson asked about the historic interpretation. City Engineer Cheney stated he has over 20  
46 years with Bountiful City and has been involved with both the site plan review process for single-  
47 family and accessory structures and the approval of building permit reviews. He stated these  
48 structures would have been approved through the City. Director Astorga noted that the new



1 administrative law interpretation would not allow an accessory structure unless it was completely  
2 behind the primary structure.

3  
4 The Commission discussed the maximum size and height of accessory structures and whether  
5 placement of a structure should be in the back and not on the side near the front or in the front setback.  
6 They also discussed the possible approval of a conditional use permit to be allowed for abnormal lots.

7  
8 Commissioner Jacobs noted to the public that the Commissioners take this item seriously and do not  
9 want to forward this item to the City Council without careful consideration. The commissioners felt  
10 that this is a challenging issue, and they want to make sure that they have the best policy going  
11 forward.

12  
13 Director Astorga noted that the City code does not have any aesthetic requirements for single-family  
14 dwellings. City Attorney Drake stated that there has been a lot of thought that has gone into this code  
15 and the possible changes and asked that if the Commission members do not approve the propose code  
16 change that they give staff direction to move forward

17  
18 Commissioner Bell made a motion to forward a negative recommendation to City Council and further  
19 consider the amendment. Jim Clark seconded the motion. City Attorney Drake mentioned that if a  
20 recommendation is sent to City Council, then this item will not be considered by the Planning  
21 Commission for any changes in language. Commissioner Bell withdrew his motion.

22  
23 There was discussion about considering a midpoint if the roof line of the structure for the purpose of  
24 determining where an accessory structure could be located. Director Astorga noted the potential  
25 difficulties in determining what the midpoint of a roofline.

26  
27 Commissioner Jacobs made a motion to table this item to the next available meeting and direct staff  
28 to consider potential changes such as conditional use permit, evaluating maximum cap based on  
29 percentage or square footage with new language and other discussed changes. Commissioner Bell  
30 seconded the motion. Commissioner Spratley stated that she likes the midpoint measurement of the  
31 structure wall on the side the accessory structure is proposed to be built. Voting passed 7-0 with  
32 Commission members Bawden, Bell, Clark, Harris, Jacobs, Monson, and Spratley voting aye.

33  
34 **5. Work Session Discussion for The Brooks, mixed-use development located at 220 North Main**  
35 **St, Justin Atwater, applicant.**

36  
37 Justin Atwater and Phil Holland were present. City Planner Poole presented the item.

38  
39 This item was approved on April 14 for a preliminary site plan. This is the first mixed-use project in  
40 the downtown zone on Main Street since the last amended mixed-use downtown code. Director  
41 Astorga stated that the Commission members have been given a copy of the Downtown code.

42  
43 Mr. Atwater discussed the changes that have been recommended from Planning Commission and  
44 City Council. As Council recommended that 3 parking spaces be removed and include a detailed  
45 landscape plan shown. The applicant has removed one entire unit and the parking space to add an  
46 ADA ground floor accessible unit, the project will have 20 units instead of 21 units. The lower  
47 commercial units of the building will be required to meet commercial code. The rear unit on the north  
48 building has been mirrored and will have canopies to match. There will be a man door to walk out

1 onto Main Street that will be flush with the front of the building. There will be 14 parking spaces  
2 that will be shared use.

3  
4 City Engineer Cheney discussed the parking stalls sizes that may be a challenge and the measurements  
5 would need to be looked at. He also suggested that the east building have a driveway from the south.

6  
7 Commissioners thanked the applicants for their hard work and willingness to work thru the problems  
8 with staff.

9  
10 **6. Planning Director's report, review of pending applications and miscellaneous business.**

11  
12 Chair Monson ascertained there were no other items to discuss. The meeting was adjourned at 9:33  
13 p.m.

14  
15   
16 \_\_\_\_\_  
17 Sean Monson  
18 Planning Commission Chair