

BOUNTIFUL CITY
PLANNING COMMISSION AGENDA
Tuesday, May 16, 2017
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 May 2, 2017.
3. **PUBLIC HEARING** - Consider approval for a Variance to allow installation of a 6-7 foot tall fence in the front yard at 2933 Lewis Park Cove, Rudy Larsen, applicant.
4. Consider final PUD Plat and site plan approval for a five unit townhome style multifamily development, located at 958 N 200 West, Robert Gibson, applicant.
5. Consider approval of the Findings of Fact for a Variance to Section 14-5-105 A in order to allow for parking within the required front yard setback at 157 W 300 South, Robert McArthur, applicant.
6. Discussion of Downtown zone (DT) – Plat A Neighborhood.
7. Planning Director’s report, review of pending applications and miscellaneous business.



Chad Wilkinson, Bountiful City Planner

Bountiful City
Planning Commission Minutes
May 2, 2017
6:30 P.M.

Present: Chair – Sean Monson; Planning Commission Members – Dave Badham, 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: Planning Commission Member – Von Hill and 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 April 18, 2017.

Tom Smith made a motion to approve the minutes for April 18, 2017 as written. Dave Badham seconded the motion. Voting passed 4-0-1 with Commission members Badham, Bell, Smith and Spratley voting aye and Monson abstained.

3. Consider preliminary and final site plan approval for a Verizon Telecommunication Tower at the South Davis Recreation Center located at 550 N 200 West, Jared White representing Verizon, applicant.

Jared White was present. Chad Wilkinson presented the staff report.

Mr. Jared White, representing Verizon Wireless, requests preliminary and final site plan approval for a new telecommunications tower located at the South Davis Recreation Center. The proposed tower is to be located on the north side of the Recreation Center in an existing landscape area. The subject property is located within a Single Family Residential (R-4) zone. Telecommunications towers are an allowed use in the R-4 zoning district.

The Land Use Ordinance encourages location of telecommunications facilities on public properties and more specifically states that the policy of the City is to make available to telecommunications companies such sites that the City owns which can reasonably serve the needs of the companies, the citizens and the City. When located on a City owned property, a telecommunications tower is considered a permitted use and does not require a public hearing.

The proposal includes the installation of an 80-foot high telecommunications monopole tower along with antennae. The application also includes the installation of a fenced equipment area approximately 20 feet by 36 feet in area (720 square feet). A 10-foot wide access easement is proposed across the Recreation Center parking area to provide for routine maintenance of the facility. The applicant proposes to provide power to the facility from an existing pole located to the north west of the tower. An additional easement is proposed across the north side of the Rec. Center site in order to provide access to fiber optics and power. The precise location of these easements will be subject to review and approval by impacted City departments.

The applicant has indicated that they are willing to install a 60-foot tall tower instead of the 80 foot tower. However, the installation of a lower tower will limit the ability for co-location by other providers in the future. Co-location is encouraged by City Code in order to minimize the number of towers in the City. The 80 foot height requested is consistent with other towers installed in the City including the tower at Mueller Park Junior High. The proposed tower is effectively screened from public view to the south by the Rec. Center building and is located several hundred feet from 200 West and Main Street. The closest of the existing residences is approximately 150 feet from the proposed tower and a large tree exists between the tower and the residence. The conditions below include a maximum width for pole and the antennae array in order to mitigate visual impacts.

The proposed tower will create visual impacts to adjoining properties. Impacts to traffic and existing utilities are expected to be minimal.

Staff recommends that the Planning Commission forward a recommendation of preliminary and final site plan approval for the requested telecommunications tower subject to the following conditions:

1. The applicant shall meet all requirements of the Bountiful Power Department.
2. Provide easement documents, including legal descriptions for review and approval by the City.
3. The communications tower shall not exceed 30 inches in diameter at the base and shall taper to no more than 20 inches in diameter at the top of the pole.
4. The maximum tower height allowed shall be 80'. Antennas and appurtenances shall not extend more than 6 feet above the tower.
5. The color of the tower is to be determined by staff.
6. At no point shall any part of an antenna array, including the antenna pads, extend more than 80" inches from the exterior of the communications tower pole.
7. The tower shall be constructed in such a way to allow for at least three different services, meaning the original applicant equipment and two co-locations on the same tower.
8. The applicant shall consent to at least two future co-locations on the tower.
9. The applicant shall obtain a building permit before commencing construction.
10. Any and all fees shall be paid.

Mr. White stated that the closest tower to the proposed location is located at Viewmont High School and the new tower will offload the strain of the existing tower.

Tom Smith made a motion that the Planning Commission pass a recommendation to the City Council for preliminary and final site plan approval for a Verizon Telecommunication Tower at the South Davis Recreation Center located at 550 N 200 West with the ten conditions outlined by staff. Sharon Spratley seconded the motion. Voting passed 5-0 with Commission members Badham, Bell, Monson, Smith and Spratley voting aye.

4. PUBLIC HEARING - Consider approval for a Variance to Section 14-5-105 A in order to allow for parking within the required front yard setback at 157 W 300 South, Robert McArthur, applicant.

The applicants, Robert McArthur and Alan Mortensen, have requested a variance to allow for a parking space within the required front yard setback area of a property he developed at 157 W 300 South. The property is located in the RM-19 zoning district and is part of the DuMc Planned Unit Development.

Section 14-2-111 authorizes the Planning Commission as the review body for variance requests related to parking and setbacks.

The applicant has requested a variance to allow an existing driveway and parking area constructed at 157 W 300 South to remain. The DuMc Planned Unit Development was originally approved in 2013 as a three unit multifamily development. The site plan approved by the City Council and Planning Commission did not include the driveway and parking space and the site plan approved as part of the building permit set did not include the driveway and parking space. Subsequent to the issuance of the building permit for the site, the driveway was constructed and was discovered during a bond release inspection by City Engineering staff. The driveway approach for the parking space was constructed without permit and does not meet City standards for driveway approaches. The City initiated enforcement action in order to obtain compliance with the Code and the applicant has elected to request a variance rather than removing the noncompliant driveway.

The parking space in question does not meet the standards for the RM-19 zone. Section 14-5-105 (A) states that, “No dwellings, parking spaces, or other site elements, other than sidewalks, landscaping, and *approved* driveways may be allowed in the front setback”. Additionally, Section 14-5-117 states that, “Driveway and parking areas in multifamily projects shall be designed so that vehicles do not back on a public street.”

The staff report for the original Planning Commission review of the item noted that the units “are effectively attached single family dwellings, and so the parking standard, driveway width, etc, applied are those for single family dwellings.” Single family residential requirements include a minimum 35 foot separation between driveways located on the same property and a restriction on parking of vehicles within a required front yard except for on an *approved*, paved driveway. Whether the development is treated as a single family dwelling or a multi-family dwelling, the driveway does not meet the standards of the Land Use ordinance. The applicant has suggested that the development be deemed a “townhome style” residential development in order to utilize an exemption in the multifamily zone standards. However, this is inconsistent with the original approval and would still not address the parking of vehicles in the front yard which is prohibited in the multifamily zoning standards.

The applicant submitted photographs of existing driveways and parking spaces throughout Bountiful. Some of the driveway examples appear to be illegally constructed with several of the examples using metal plates or ramps instead of a legally constructed driveway to access a parking area. Others appear to access the parking areas by mounting the curb. This is expressly prohibited in the Code. The existence of other non-permitted and/or illegal driveways is not a justification for a variance.

Variance Findings in Utah State Code were included in the Planning Commission packet and in the applicant’s file.

Staff recommends denial of the requested variance to allow for a parking space in the required front yard of a multifamily development in the RM-19 zone. Staff recommends removal of the parking space and driveway leading to the parking space in order to comply with the approved site plan and the standards of the Land Use Ordinance.

Applicants discussed the reasons of hardship to keep the driveway.

1. Buffer from storage
2. Visual buffer power plant

3. Off street parking
4. Public Safety access
5. Beautification
6. Security and safety from other properties

Chair Monson opened the Public Hearing at 6:59 p.m.

Larry Dupax resides at 145 W 300 South. Mr. Dupax worked with Mr. McArthur in 2013 to present this project for approval and believes that the driveway is functional and creates benefit to the community. It creates a buffer from the storage units and improves the area.

Alan Mortensen resides at 157 W 300 South. Mr. Mortenson purchased the subject property and loves the house and wants to stay in the downtown area.

Chair Monson closed the Public Hearing at 7:03 p.m.

Commission members and staff discussed the code that allows for a second driveway or a circular driveway. Mr. Wilkinson stated that the existing approved plans on record don't meet the requirements for a driveway in a single family zone or a multifamily zone. The commission members agreed with the fit and aesthetics of the driveway but also agreed that it did not meet the code requirements.

Sharon Spratley made a motion to deny the requested variance to allow for a parking space in the required front yard of a multifamily development in the RM-19 zone. Jesse Bell seconded the motion. Voting passed 4-1 with Commission members Badham, Bell, Monson, and Spratley voting aye with Smith voting nay.

Mr. Wilkinson stated that this issue is currently with the prosecutor's office and will be working out an option for the sidewalk/curb cut.

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 7:16 p.m.

Chad Wilkinson, Bountiful City Planner

Commission Staff Report

Item # 3

Item: PUBLIC HEARING – Request for a variance in order to allow installation of a 6 to 7-foot fence within the required front yard
Address: 2933 Lewis Park Cove
Author: Chad Wilkinson, Planning Director
Date: May 16, 2017



Description of Request

The applicant, Rudy Larsen, has requested a variance to allow for installation of a 6 to 7-foot high fence within the front yard of the residence located at 2933 Lewis Park Cove.

Authority

Section 14-2-111 authorizes the Planning Commission as the review body for variance requests related to fencing.

Background and Analysis:

The applicant is requesting a variance to allow for a 6-7 foot tall fence within the required front yard. Section 14- 16-110 (B) limits the height of fences within the required front yard to 4 feet for an “open style” fence and 3 feet for a solid fence. The applicant proposes an open style wrought iron fence in order to provide a barrier between the sidewalk and a culvert associated with a creek running through the property. The owner plans to extend the fence onto an adjoining property that they own on the other side of the creek. A narrative prepared by the applicant explaining the request is attached to this report. The predominant issue is safety and providing a physical barrier to prevent falls into the deep creek/culvert area in this location. The applicant has also submitted an e-mail from Davis County indicating conditions for the fence to facilitate access to the creek for flood control maintenance of the culvert and creek. The applicant’s plans indicate that the fence would be extended out to the front property line surrounding the creek and then quickly transition back to the required 25 foot front yard setback on the other side of the creek.

One note not related to the variance is that the pool shown on the applicant’s future plan will require the combination of the two lots. Accessory structures and uses, such as the pool, are not allowed on a lot without a primary use.

Variance Findings

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 proposed variance is limited to the area immediately adjacent to the creek and culvert and will provide for a barrier between the culvert and the sidewalk. While the purpose of the ordinance is to provide for open areas adjacent to the street and limit fence height in front yards, the location of the creek and culvert is a unique circumstance not anticipated by the land use ordinance. Because the variance should be limited to the minimum necessary to overcome the hardship, the height of the fence should be limited to six feet.

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

Staff Response: The location of the creek and culvert constitute a special circumstance that does not apply generally to properties in the neighborhood.

- (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 property owners have a right to a 4-foot open style fence in their front yard. In this case, because of the culvert and creek location, a four-foot fence would not provide enough of a barrier between the culvert and the sidewalk. In addition, extending the six foot fence across the creek at the front setback line is not desirable as it will potentially collect debris and could contribute to flooding.

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

Staff Response: Providing a barrier between the public sidewalk and the culvert crossing is in keeping with the public interest as long as access is maintained for Davis County Flood Control maintenance.

- (v) *The spirit of the land use ordinance is observed and substantial justice done*

Staff Response: The applicant has limited the encroachment of the proposed fence into the front yard area to the minimum required to enclose the culvert. These limits are consistent with the spirit of the ordinance.

Department Review

City Planner, City Engineer, Fire Marshall, Police Department

Recommended Action

Staff recommends approval of a variance to allow for a 6-foot tall fence within the required front yard subject to the following conditions:

1. Maintain access for Davis County Flood Control with size and type of access to be determined by the County.

Attachments

1. Aerial Photo
2. Applicant's Narrative

Aerial Photo



Bountiful City

RE: Larsen's Home 2933 Lewis Park Cove - Variance Request

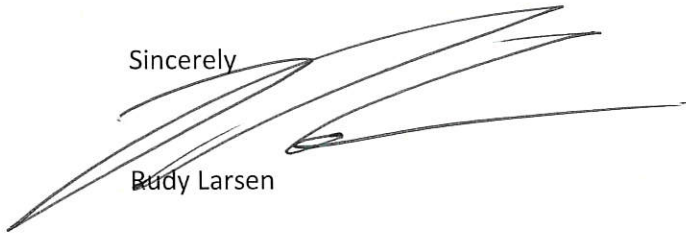
Bountiful City Planning Council,

Below you will find our request to install up to a 6 to 7-foot fence in our front yard. We wish to only install this fence around the Spring/Creek which runs through our front yard and under the street (Lewis Park Cove) We believe that installing this fence will benefit Bountiful City and our Community. The reason for this is the creek now stands 20 feet wide and 10 feet deep (see photo 1 below), only inches away from the sidewalk (see photo 2 below). Even the current fence sits 8-10 inches below the sidewalk. This is an enormous risk and problem for neighbors and any children or teenagers, as many of these kids love to climb over and play and through rocks in the creek. To date we have had 1 young man named Blake Finklea (see photo 3 below) who has fallen into the creek and cut open his head, requiring him to get 10 stitches.

We also believe it is in the best interest of the Larsen's to install a taller fence to insure our neighboring kids are kept safe and reduce any liability or risk that we might have due to the Spring located on our property.

We thank you in advance for your time and consideration of our Variance.

Sincerely



Rudy Larsen

Photo #3

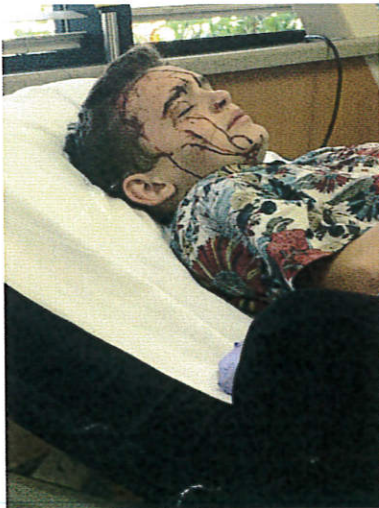


Photo #2



Photo #1



What city ordinance do you want a variance from?

14-16-110 Fence Wall and Lighting Standards for a Single Family or Two Family Dwelling

B. In the minimum front yard setback area, an open style fence shall be a maximum of (4) feet in height.

How does the proposed variance request meet all of these criteria?

2. – A. – i - Hardships that may include additional liability to the Larsen's if someone was to get seriously hurt or injured.

2. – A. – ii – There are special circumstances attached to the property that do not generally apply to others in the same zone.

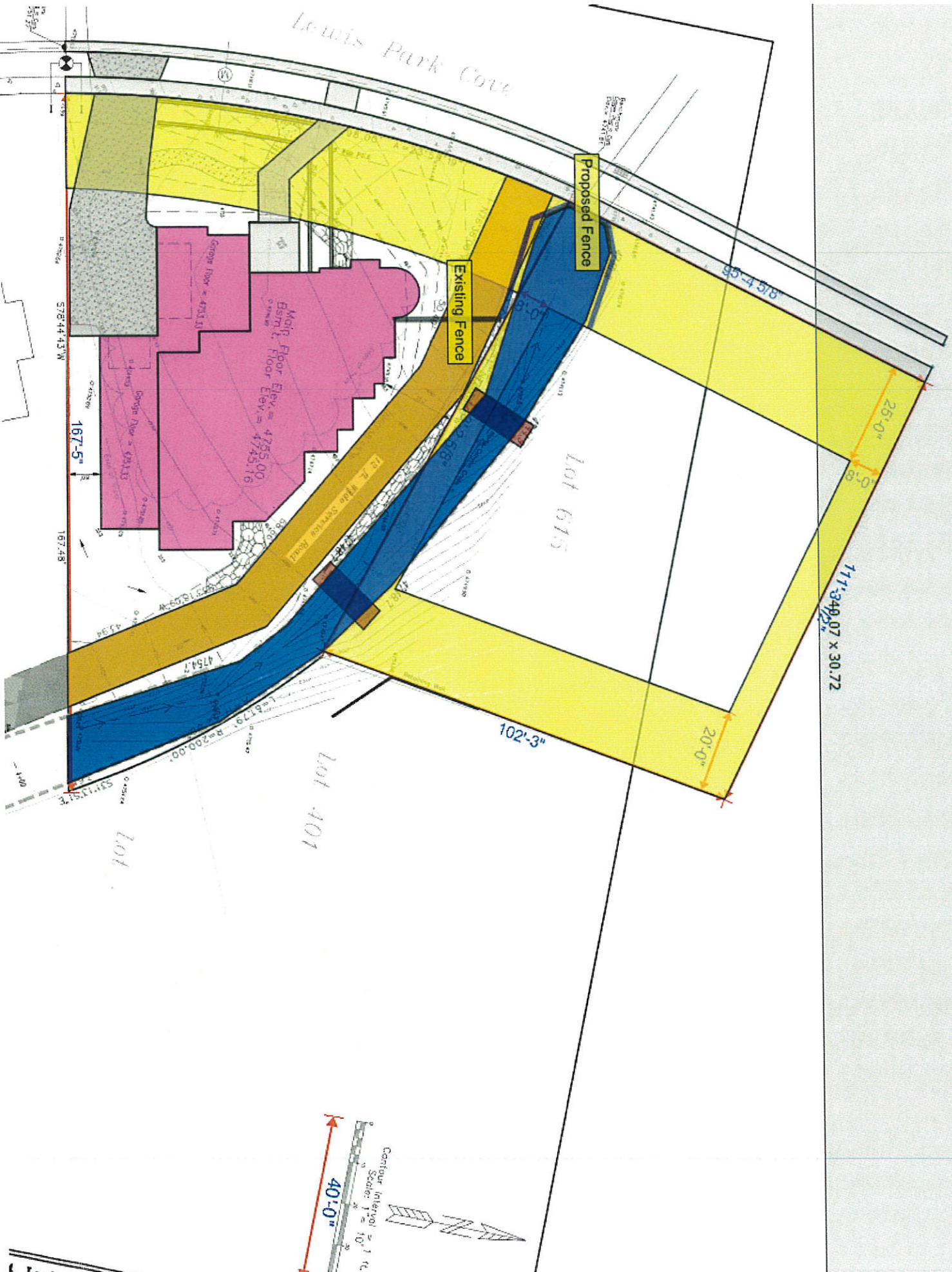
Our home is one of the only homes in the neighborhood that has the Creek/Spring running through our front yard. We wish to install a larger fence (up to 6 - 7 ft) then the maximum 4 foot allowed. Additionally, where our front yard and creek is located there is no more than 6 inches from the sidewalk before the area drops down 10 ft to hard stone. Other people in the same zone have the creek in their backyard or they have a nice slope down to the creek.

2. – A. – iii – If there is no fence or only a small fence allowed it may limit the ability to enjoy our front yard due to the possible liability or fear of possible injury.

2. – A. – iv – We believe that a taller fence will be in the best interest of the community and neighborhood as it will add additional safety.

2. – A. – v – We don't see how this may impact the spirit of the land ordinance.

Lewis Park Cove



Proposed Fence

Existing Fence

Lot 615

Lot 401

Lot 616

111'-349.07 x 30.72

20'-0"

102'-3"

10'-8"

26'-0"

8'-5 5/8"

167'-5"

167'-4.8"

578'-14.43' W

578'-14.43' W

Contour Interval ≈ 1/4"
Scale: 1" = 10'
40'-0"



6. Lot

Neighboring Fence Across Street --



Rudy Larsen

From: Rudy Larsen
Sent: Friday, April 28, 2017 4:49 PM
To: Rudy Larsen
Subject: FW: Culvert Fence - Stream Permit No. 16-31-0001

From: Robert Smith <robert@co.davis.ut.us>
Date: April 28, 2017 at 7:10:01 AM MDT
To: Carson Jensen <carson@lawnbutler.net>
Subject: Re: Culvert Fence - Stream Permit No. 16-31-0001

Carson, I will need hinged gates over the box culvert. Bolted would take too long to undo in the event of an emergency. Adam Wright, Davis County Public Works Director, is in agreement with the hinged gates. I understand that you will remove the existing chain link fence when the new fence is installed. Let me know if that is correct. Bountiful City may contact either of us if they need anything.

Robert B. Smith
Operations Manager
Davis County Public Works

On Thu, Apr 27, 2017 at 1:41 PM, Carson Jensen <carson@lawnbutler.net> wrote:

Robert,

We are currently working with the City of Bountiful to obtain a variance on the fence height within the 25' setback of lots #614 and #615 in the Lewis Park Phase 6 subdivision. As you may be aware we originally installed the same perimeter fence which we have installed thorough out this project (see attached photos). The owner received a letter from Bountiful City indicating non-compliance of the 25' setback. According to Bountiful City code 4' fences are currently permitted; we would like to extend that height to 6'-7' with approval of the city. As part of the variance process Bountiful City has requested that we gain County approval as well. What can we do to appease Davis County in this matter? It would be my proposal to install access like the 15' right of way along the creek. We can make the (2) panels above the culvert easily removeable for County access. If this is not sufficient for the needs of the County we can installed hinged panels for quicker access. Please let me know if either of these solutions would meet the minimum requirements for the County.

Please give me a call if you have any questions or concerns. Otherwise your final approval and direction would be greatly appreciated.

Thanks,

Carson Jensen

Carson Jensen

Lawn Butler | 86 South 1250 West Centerville, Utah 84014

Cell [\(801\) 664-5524](tel:(801)664-5524) | Office [\(801\) 298-3330](tel:(801)298-3330) | Fax [\(801\) 335-0506](tel:(801)335-0506)



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Robert B. Smith
Operations Manager
Davis County Public Works
801-444-2230

Commission Staff Report

Item # 4

Subject: Final PUD Plat Approval for Enclave PUD
Address: 50 East 3100 South
Author: City Engineer
Department: Engineering, Planning
Date: May 16, 2017



Background

Mr. Robert Gibson has completed the PUD site plans and the plat map for this development and is now requesting final approval for the 5 unit Enclave PUD. This PUD was granted preliminary approval by the Council on April 18, 2017.

Analysis

To review, the proposed PUD consists of 5 units on 0.73 acres with attached parking for each. The developer has modified his plans to show the necessary private areas and front yards. The site plans, landscaping and building elevations were previously reviewed and approved with the Preliminary Plat/Final Site Plan approval on April 18, mentioned above.

Department Review

The proposed final plat has been reviewed by the Engineering Department and Planning Department.

Recommendation

With the conditions listed below, the proposed development meets the requirements of the Bountiful City Land Use Ordinance and design standards and staff recommends the Planning Commission send a positive recommendation for final approval to the City Council.

1. Post a bond to cover the costs of construction of required site improvements.
2. Make all necessary red line corrections to the drawings.
3. Prior to building permit, submit a final landscape plan meeting the requirements of Chapter 16 of the Bountiful City Zoning Ordinance.
4. Payment of all required fees.
5. Provide a current Title Report.
6. Sign a Development Agreement with the City

Significant Impacts

This places 5 homes where there has historically only been one home and a corn field. The corresponding increase to storm water runoff and traffic on 1000 North and 200 West will be minor and will not have a detrimental effect on the surrounding area.

Attachments

Lovely color aerial photo of the property in its existing condition.
Copy of the final plat

Aerial Photo of The Enclave PUD



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

APPLICANT: Robert McArthur and Alan Mortensen

APPLICATION TYPE: Request for a variance in order to allow parking within the required front yard setback.

I. DESCRIPTION OF REQUEST:

The applicants, Robert McArthur and Alan Mortensen, have requested a variance to allow for a parking space within the required front yard setback area of a property he developed at 157 W 300 South. The property is located in the RM-19 zoning district and is part of the DuMc Planned Unit Development.

II. LAND USE ORDINANCE AUTHORITY:

Section 14-2-111 authorizes the Planning Commission as the review body for variance requests related to the setback standards of the Ordinance.

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, May 2, 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 additional parking space and driveway were not discussed at the Planning Commission or City Council meetings approving the development. In addition, the site plan approved with the building permit did not include the extra parking space. The property has adequate off-street parking to meet code standards and therefore the elimination of the parking space will not cause an unreasonable hardship. Instead, elimination will bring the site into compliance with the original approval.

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

The applicant has listed several special circumstances including proximity to a power plant, a drug rehabilitation center and personal storage units as justification for a variance. In order for a special circumstance to be considered in granting a variance, it must relate to the standards for which the applicant seeks a relief. The applicant does not indicate how an extra parking space addresses or provides relief from the proximity to the power plant, or storage units or the drug rehab facility. The parking space does not provide buffering to surrounding uses, and is not needed for emergency access to the property. Replacing the parking space with landscaping would more effectively buffer the residential unit from the neighboring storage use.

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

Approval of a variance would actually grant a right that is not possessed by other property in the same zone. The applicant has submitted photos of other driveways in the City that do not appear to meet the standards of the Code. Many of these are non-permitted driveways that violate the ordinance. These non-permitted and/or illegal driveways are not a justification for a variance.

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

A limitation on the number and location of driveways and parking areas within required front yards is in the public interest. The development was approved in conjunction with a site plan review by the Planning Commission and City Council. Requiring compliance with the approved site plan is also in the public interest.

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

Granting a variance would be contrary to the spirit of the land use ordinance. The driveway spacing standards of the Code are meant to enhance public safety by limiting the number of locations vehicles may enter the public right-of-way. Restrictions on parking within a front yard provide opportunities for additional landscape areas in front yards which enhances the beauty of the community.

VI. DECISION AND SUMMARY

The Planning Commission denied the variance request to allow parking in the required front yard. The vote on the motion to deny was 4-1.

VII. FINDINGS OF FACT APPROVED BY THE Bountiful City Planning Commission this _____ day of May 2017.

Sean Monson, Chair
Bountiful City Planning Commission