



**CITY OF HOLLADAY
ADMINISTRATIVE APPEALS HEARING
MEETING AGENDA**

Monday, September 16, 2024
Mt. Olympus Room
4580 S. 2300 E.
9:30 AM

AGENDA ITEM(S)

1. **Christensen Front Yard Setback Variance** – 2336 E. Briarwood Dr
(SLC Assessor Parcel/Acct. No. 22032520510000; the property is in an R-1-10 [Single Family Residential] Zone)

The Applicant(s) seek(s) relief from the prescribed 32.53 ft front yard setback, proposing to maintain a 25.25 ft front setback. [City Code Title §13.14.054].

2. **Holladay Peaks Corner Side Setback Variance** – 4930 S. Westmoor Rd
(SLC Assessor Parcel/Acct. No. 22091820110000; the property is in an R-1-10 [Single Family Residential] Zone)

The Applicant(s) seek(s) relief from the prescribed 20 ft standard corner side setback, proposing to maintain a 12.4 ft side yard setback (*representing 15% of the lot width*). [City Code Title §13.14.057].

3. **Adjourn**

CERTIFICATE OF POSTING

I, Stephanie N. Carlson, the City Recorder of the City of Holladay, certify that the above agenda notice was posted on the City of Holladay bulletin board, the City website www.holladayut.gov, the Utah Public Notice website www.utah.gov/pmn, and was emailed to the Salt Lake Tribune and Desert News and others who have indicated interest.

DATE POSTED: Wednesday, September 11, 2024 at 11:30 am

*Stephanie N. Carlson MMC, City Recorder
City of Holladay*

Reasonable accommodations for individuals with disabilities or those in need of language interpretation service can be provided upon request. For assistance, please call the City Recorder's office at 272-9450 at least three days in advance. TTY/TDD number is (801)270-2425 or call Relay Utah at #7-1-1



**VARIANCE APPLICATION
REQUEST FOR APPEAL OFFICER ACTION**

~~~~~  
SEPTEMBER 06, 2024

REQUEST: FRONT YARD SETBACK VARIANCE  
ADDRESS: 2336 E. BRIARWOOD DR, HOLLADAY, UT 84124  
APPLICANT: SUSAN CHRISTENSEN  
FILE NO: 24-5-03  
STAFF: JUSTICE TUFFOUR, (*City Planner & GIS Manager*)  
APPEAL OFFICER: MR. FRANK NAKAMURA

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**PROPERTY INFORMATION**

ACREAGE: 0.25 acres (10,890 square feet)  
GENERAL PLAN: Low Density Residential - Stable (LDR-S)  
ZONE: R-1-10  
CURRENT USE: Single Family Residential (SF-Residential)  
GOVERNING ORDINANCES: Title §13.14.054: Front Setbacks; Title §13.09.020: "Variance"  
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**REQUEST**

The applicant seeks an exception to the regulations outlined in the City of Holladay Code Title §13.14.054 {pertaining to Front Setbacks}, which governs the minimum front setback from a main building to the property line. The appellant is requesting to be granted a relief from the prescribed 32.53 ft front yard setback, proposing to maintain a 25.25 ft front setback. The requested exception herein would constitute a 7.28 ft front setback variance, which would run with the land in perpetuity.

**PROPOSAL BACKGROUND**

The appellant and agent, Susan Christensen and Travis Blatter, have filed an appeal with the Administrative Hearing Officer seeking a variance to the above portions of the City of Holladay Zoning Ordinance Chapter 13, specifically pertaining to the minimum front setback distance required for any main structure. The applicant has proposed the construction of a new home on the subject property – which is a vacant corner lot # 22-03-252-051-0000. Given that the property was initially addressed on Briarwood Drive, the shape and orientation of the lot would essentially preclude the applicant from having any backyard – should they proceed to build a decent-sized home on the lot. This challenge prompted the applicant to change their address to front Briarwood Circle in order to benefit from having a backyard. Upon submitting a permit application for plan review, the applicants were informed by the City's Technical Review Committee that the proposed front yard setback for their development (25.25 ft) would not comply with the current city code §13.14.054 – regarding Front Setbacks. Holladay City's zoning regulations mandate that the front setback for corner lots are to be determined on the basis of averaging the front setbacks for three (3) adjacent lots on the same street. In this case, the average front yard setback for three (3) adjacent lots in



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the neighborhood cul-de-sac has been determined to be 32.53 ft. The applicant is hereby requesting a relief from the Code requirement related to front yard setback {§13.14.054 (D)5}, in turn seeking permission to maintain a 25.25 ft. setback from the property line. Additional information regarding the applicants' narrative, supporting documents including site plan, and proposed front yard setbacks are attached herewith (*see applicants' narrative and supporting documents*).

### HOLLADAY CITY CODE

#### Holladay City Ordinance §13.14.050: SETBACKS:

1. A. Purpose: The spacing of buildings and structures away from property lines, rights-of-way, physical hazards and natural features such as streams and other buildings, are essential elements of land use planning and of urban design. In particular, setbacks may provide for privacy, light, shadow, air movement, passive and active space, vegetation and also contribute directly to physical and psychological wellbeing. Setbacks should vary proportionally depending upon the size and shape of the properties and also upon the type of the existing and proposed land use. In some instances, setbacks should be uniform assuming there is a specific desired outcome for the setback, such as protection of views, public safety, economic development, etc. In other instances, variability and flexibility of setback may produce equally important outcomes such as the protection of natural features, aesthetically pleasing streetscapes, creativity in architectural design, and retention of fragile housing stock or other important goals. Due to the evolution of housing styles over the last few decades, the relative high value of land within the community, the desire for architectural creativity, and especially the dramatic increase in average house size, setbacks shall be applied within a flexible envelope.
- B. Implementation: Averaging of setbacks in all yard areas shall be allowed as shown below. Variations across the setback line may not exceed fifteen percent (15%) of the minimums required. Calculation of the average shall require at least ten (10) equally spaced measurements across any one "building line", as defined in section 13.04.040 of this title, and shown in figure 13.14.051 of this subsection.

#### Holladay City Ordinance §13.14.054: FRONT SETBACKS:

A. Purpose: In the City of Holladay, development patterns have been set in neighborhoods by past choices. These choices are reflected in the location of homes with regard to the configuration of individual lots, the age of the houses and the mature vegetation that has been cultivated and added over the years. In order to maintain the unique character of individual neighborhoods, the minimum front setback for main buildings on each street should support and continue that development pattern.

B. Worksheet Required: The property owner and/or their designee shall calculate the front yard setback as described herein. Results shall be documented by completing the "R-1 Zone Worksheet", on file with the Community Development Department. The completed worksheet shall be signed and submitted with the building permit application and reviewed and verified by the Technical Review Committee as per subsection 13.08.010A of this title, to become part of the permit file.

C. Front Setbacks On Lots 1.5 Acres In Size Or Larger: The minimum front setback for any main building with frontage on a public street shall be forty feet (40').

D. Front Setbacks On Lots Less Than 1.5 Acres: The minimum front setback for any main building with frontage on a public street shall be calculated using an average of the front setbacks of each of the main structures on the block face within four (4) adjacent lots, two (2) on each side of the property in question and may include the existing structure on the property in question. The average of each main structure shall be determined on-site by using the shortest and farthest measurement from the property line to the main structure. Measurements will be verified by the Technical Review Committee. The average calculation shall be further limited by the following:

1. If one or more of the lots required in the averaging calculations is vacant, the front setback for such vacant lots will be determined based upon the average front setback of the main building, if any, that formerly occupied that lot. If



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the lot has never been occupied, or if the average front setback of the former building cannot be determined, the front setback shall be calculated using a fifth adjacent lot, which the Community Development Director determines would most appropriately reflect the development pattern of the neighborhood in question.

2. Lots fronting on a different street than the subject lot may not be used in computing the average.
3. Lots, on file, with the Community Development Department, for which a front yard variance has been granted by the City of Holladay Appeal Hearings Officer are deemed to be unique to the streetscape and shall not be used in computing the average. In which case the calculation of such lots shall be based upon what the correct setback should have been, omitting the granted variance distance.
4. If one or more of the lots required in the averaging calculations have been built or rebuilt upon during or after August 2012, the Community Development staff shall gather the information necessary to complete an "R-1 Zone Worksheet" as described in subsection B of this section. If the Community Development staff determines, based upon the information provided in that worksheet, that the front yard setback for a building was calculated incorrectly, or that the building was built incorrectly; the front yard setback for such lots will be calculated based upon what the correct setback should have been, rather than its as-built configuration.
5. **When the subject lot is a corner lot, the average setback will be computed on the basis of the three (3) adjacent lots on the same street as the subject lot.**

E. Front Setbacks On Private Rights-Of-Way: The minimum front setback for a main building fronting on a private right-of-way is shown on chart 13.14.055 of this subsection.

## APPROVAL STANDARDS

### FIVE-PART TEST FOR VARIANCE:

The Hearing Officer may grant a variance only if:

1. **Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance.** In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship, the board of adjustment may not find an unreasonable hardship unless the alleged hardship: 1) is located on or associated with the property for which the variance is sought; and 2) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood. The hardship cannot be self-imposed or economic.
2. **There are special circumstances attached to the property that do not generally apply to other properties in the same zone.** The Hearing Officer may find that special circumstances exist only if the special circumstances: 1) relate to the hardship complained of; and 2) deprive the property of privileges granted to other properties in the same zone.
3. **Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.**
4. **The variance will not substantially affect the General Plan and will not be contrary to the public interest.**
5. **The spirit of the zoning ordinance is observed and substantial justice is done.**

## STAFF FINDINGS (ANAYLSIS)

*(Staff does not vote on these matters and acts only in an advisory position on the technical aspects of the application)*

Generally, these findings are determined premised on the city staff's administrative interpretation of Holladay city's applicable ordinances, context characteristics of the subject property, the purpose of the code, and the overall neighborhood character in relation to the variance request.



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- According to the Holladay city ordinance regulating front yard setbacks for corner lots, the average is to be determined by three (3) adjacent lots on the same street as the subject lot {Ord. 13.14.054}. The front yard setback for the subject property's street (*i.e.*, *Briarwood Circle*) was assessed to be 32.53 ft – based on the average setbacks for 4412 E, 4420 E, and 4405 E Briarwood Circle. While the applicant can meet the required front yard setback for the lot, doing so would prevent them from meeting the minimum rear yard setback of 18 feet and would also conflict with the building corridor requirement. In evaluating the applicant's request, City staff assessed two context-based considerations to determine whether the resulting hardship from complying with the ordinance requirements would be self-imposed or unreasonable. These considerations are: 1) Is the proposed new home “unreasonably sized” in comparison to other main structures in the neighborhood, thereby necessitating a possible downsize? 2) Would granting the 7.28 ft exception to build the home at a front setback of 25.25 ft cause a substantial deviation from the neighborhood character or development pattern?
- Size of average home on Briarwood Circle:** Our analysis shows that the sizes of homes on Briarwood Circle ranged from the largest being 3,803 sq. ft. to the smallest being 2,178 sq. ft. The computed average home size in the Briarwood Circle cul-de-sac was determined to be 2,820 sq. ft. While the proposed size of home to be built by the applicant (3,499 sq. ft.) is larger than the neighborhood average, the Christensen home would not be largest size home in the neighborhood. The neighbor located directly south of the applicant has the largest home in the circle (3,803 sq. ft.) – a difference of 304 sq. ft. The city staff assess that the proposed home to be built by the applicant is reasonably sized and does not deviate significantly from the neighborhood home sizes (*See sizes of homes below*).





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- **Setback deviance from neighborhood character:** While the ordinance requires a front yard setback of 32.53 ft., the requested front setback of 25.25 ft would not significantly deviate from the established development pattern on the Briarwood Circle streetscape. In fact and reality, the closest front setbacks for the immediate neighboring properties to the South (4412 S Briarwood Cir.) and the East (4405 S Briarwood Cir.) are 22 ft. and 16 ft. respectively. Unlike certain streets in Holladay where front yard setbacks create a uniformly consistent streetscape, our analysis indicates that the Briarwood Circle subdivision reflects contrasting front yard setback averaging. Put simply, Briarwood circle currently does not exhibit a uniform streetscape (*See Table 1 below*). In some respects, this lack of uniformity is often a result of irregular lot shapes and orientations within the subdivision, which taper along the front yard. Based on this assessment, City staff is of the opinion that the proposed 25.25 ft front setback would not detract or negatively impact the visual outlook of the Briarwood circle streetscape.

**Table 1: Non-uniform streetscape on Briarwood Circle**

| Address             | Closest Front Setback | Furthest Front Setback | Average Front Setback |
|---------------------|-----------------------|------------------------|-----------------------|
| 4405 Briarwood Cir. | 15.9'                 | 24.5'                  | 20.20'                |
| 4415 Briarwood Cir. | 28.8'                 | 28.8'                  | 28.8'                 |
| 4412 Briarwood Cir. | 22'                   | 39.3'                  | 30.65'                |
| 4426 Briarwood Cir. | 29.7'                 | 38.6'                  | 34.15'                |
| 4425 Briarwood Cir. | 28.3'                 | 49.7'                  | 39.00'                |
| 4419 Briarwood Cir. | 35.9'                 | 55.4'                  | 45.65                 |
| 4420 Briarwood Cir. | 48'                   | 45.5'                  | 46.75'                |

- **Purpose of Setback Ordinance 13.14.050:** According to the purpose of Holladay city setback ordinance 13.14.050 (A), in instances like Briarwood circle where the streetscape is non-uniform, the ordinance stipulates that “...*variability and flexibility of setback may produce equally important outcomes such as the protection of natural features, aesthetically pleasing streetscapes, creativity in architectural design, and retention of fragile housing stock or other important goals.*” It is our assessment that the uniqueness of the corner lot’s orientation, the desire for architectural creativity, and safeguarding the active use of vacant lots within the community, necessitates the application of flexibility in setbacks to accommodate the building envelope while producing equally important outcomes not contrary to the public interest – as recommended in section 13.14.050 (A).

### STAFF COMMENTARY & RECOMMENDATION

Pursuant to State Law and Holladay City’s Quasi-Judicial Procedures regarding variance requests, the burden of proof lies with the applicant to convincingly argue before the Administrative Appeals Officer that one or more conditions related to the property they represent hinders the applicant’s reasonable use of their land in a manner and form comparable with that enjoyed by their neighbors or other properties in a similar situation and zoning district. Each variance application is reviewed on a case-by-case basis and the merits of the matter are assessed in a public forum. Any public testimony received in response to notifications provided via public notice, the City’s websites, and any comments or recommendations by City Departments or external agencies have been presented to the Administrative Appeals Officer for their consideration. Below, the City staff assigned to this case provides commentary and recommendations on each of the five-part approval standards for this variance application.



***Describing what hardship will occur if variance is not granted.***

Concerning the appellant's demonstration of the existence of unique circumstances or an unreasonable hardship making it exceptionally difficult to comply with the zoning regulations, two site plans were submitted to demonstrate their burden of proof. The applicant submits that the required 25 ft front setback would significantly reduce the buildable area of the lot (*See site plan exhibit attached*). A technical review of applicable zoning laws indicates that compliance with the front yard setback requirement would indeed create an unreasonable hardship that extends to meeting other zoning codes, especially pertaining to the rear yard setback and the building corridor restrictions. In other words, should the applicant comply with the current front setback regulation, they would also have to compromise on their building depth on the back and maximum allowable height beyond the average building corridor. Given that the hardship condition submitted by the applicant is peculiar to the property and not self-imposed, the rationale for accommodating this exception under the 'unreasonable hardship' test appears logical. City Staff posits that accommodating the hardship would be reasonable comparative to requiring compliance with the existing City Code on front setback standard §13.14.054.

***Describing how the property is different from other properties within the vicinity.***

Regarding special circumstances attached to the property or within the vicinity, the applicant has expounded how their property distinguishes itself from other properties within Briarwood Circle by outlining three reasons in the narrative. The most substantial reason pertinent to special circumstance that set their property apart from others within the vicinity, being that the applicant's property is a rectangular corner lot that is being assessed relative to irregular-shaped lots within a cul-de-sac. In other words, the required averaging system implies comparing apples to oranges in their circumstance. The distinct shapes and orientation of the neighboring properties within Briarwood Circle prompts somewhat exaggerated front setbacks due to their elongated lot width and pie-shaped front. City Staff is of the opinion that the property evidently poses unique characteristics that are not typical of others within the immediate vicinity (*i.e., Briarwood Circle cul-de-sac*). Granting an exception to the ordinance requirements in section §13.14.054 would ensure a context-based application of the setback zoning regulation.

***Describing benefits other properties in the vicinity will enjoy at the expense of Applicant without a variance.***

In demonstrating how granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district, the applicant submitted a pressing justification to this effect. The applicant asserts that the neighboring property right across the street within the same circle (*i.e., 4405 E. Briarwood Circle*), is currently enjoying an average front yard setback of 20.20 ft (*closest point 15.9 ft and furthest point 24.5 ft*). Given that the neighboring property within the Briarwood circle mirrors the applicant's property in terms of shape, size, and orientation characteristics, City Staff believes that granting the variance to the applicant will be essential to the substantial enjoyment of property rights and common privileges enjoyed by other properties in the vicinity.

***Describing why the variance will not deviate from the general purposes of the City of Holladay development code***

Concerning impacts on the General Plan that are not contrary to the public interest, the ordinance provisions as pertaining to setbacks §13.14.050 and §13.14.054 are not explicitly captured in the General Plan. While setbacks do not significantly impact the general plan, discussions surrounding setbacks and neighborhood feel remain significant public interest concerns. On the one hand, site-level development standards and location of structures within single-family residential neighborhoods do not constitute substantial deviance from the city's general development code. City staff analysis indicates that granting the variance appears to contribute positively to



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safeguard the active use vacant lots within the community, while enhancing the aesthetic appeal of existing urban design streetscape on Briarwood Circle.

### *Describing how the variance is fair and conforms to the overall intent of the zoning laws*

In conforming to the general intent of zoning laws and fairness, the supplementary evidence and spatial analysis surmised by City Staff shows that the requested variance conforms to the overall intent of the zoning laws – specifically setback ordinance §13.14.050(A). Granting the variance appears to be a seamless fit with the intent and spirit of the setback ordinance in promoting equally important outcomes that enhance streetscapes, retain housing stock, and promotes aesthetically pleasing environments for the community. Recognizing the need for fairness in applying setback requirements from the City Code, section §13.14.050(A) advocates for variability and flexibility of setbacks based on property characteristics and context to produce equal outcomes. This flexibility is particularly relevant when uniform setback standards would disproportionately affect properties with unique shape and characteristics. City Staff believes that granting the variance to maintain the proposed 25.25 ft front setback would be key to ensuring that the fairness principle is accommodated while upholding the spirit of zoning intent.

## RECOMMENDATION

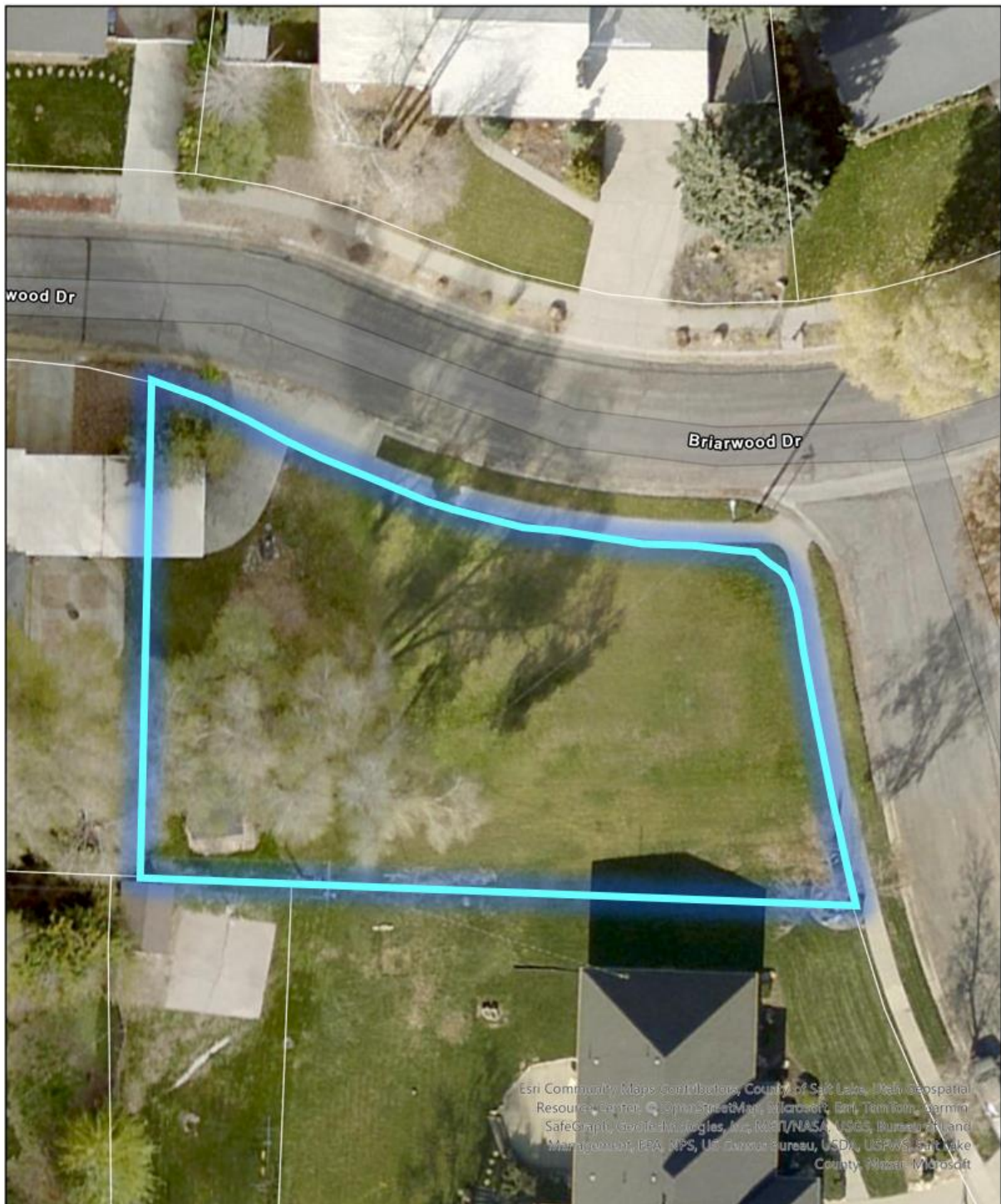
Concluding from the City Staff's technical review of City Code and analysis of geo-spatial characteristics of the context, granting the 7.28 ft. variance request appears to be the least intrusive solution to upholding the spirit of zoning as outlined in section §13.14.050(A). Discussions regarding denials or approval should be moderated by the Administrative Appeals Hearing Officer by examining of the language of City Code (*on sections §13.14.050 and §13.14.054*), the applicant's narrative, staff recommendation, and proceedings from the public hearing, as well as other submissions received herein. From the City Staff's perspective, the subject property poses unique characteristics from others within the vicinity and requiring compliance with the City Code presents an unreasonable hardship. This variance request passes the five-part test for approval standards. Approval is Recommended.

## POSSIBLE MOTIONS

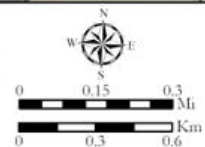
- ❖ Deny the variance request.
- ❖ Approve variance as requested.
- ❖ Approve variances with revised/alternative mitigation methods.
- ❖ Remand the request back to CED for consideration (*reschedule date should be set during this meeting*)

## SUPPORTING DOCUMENTS

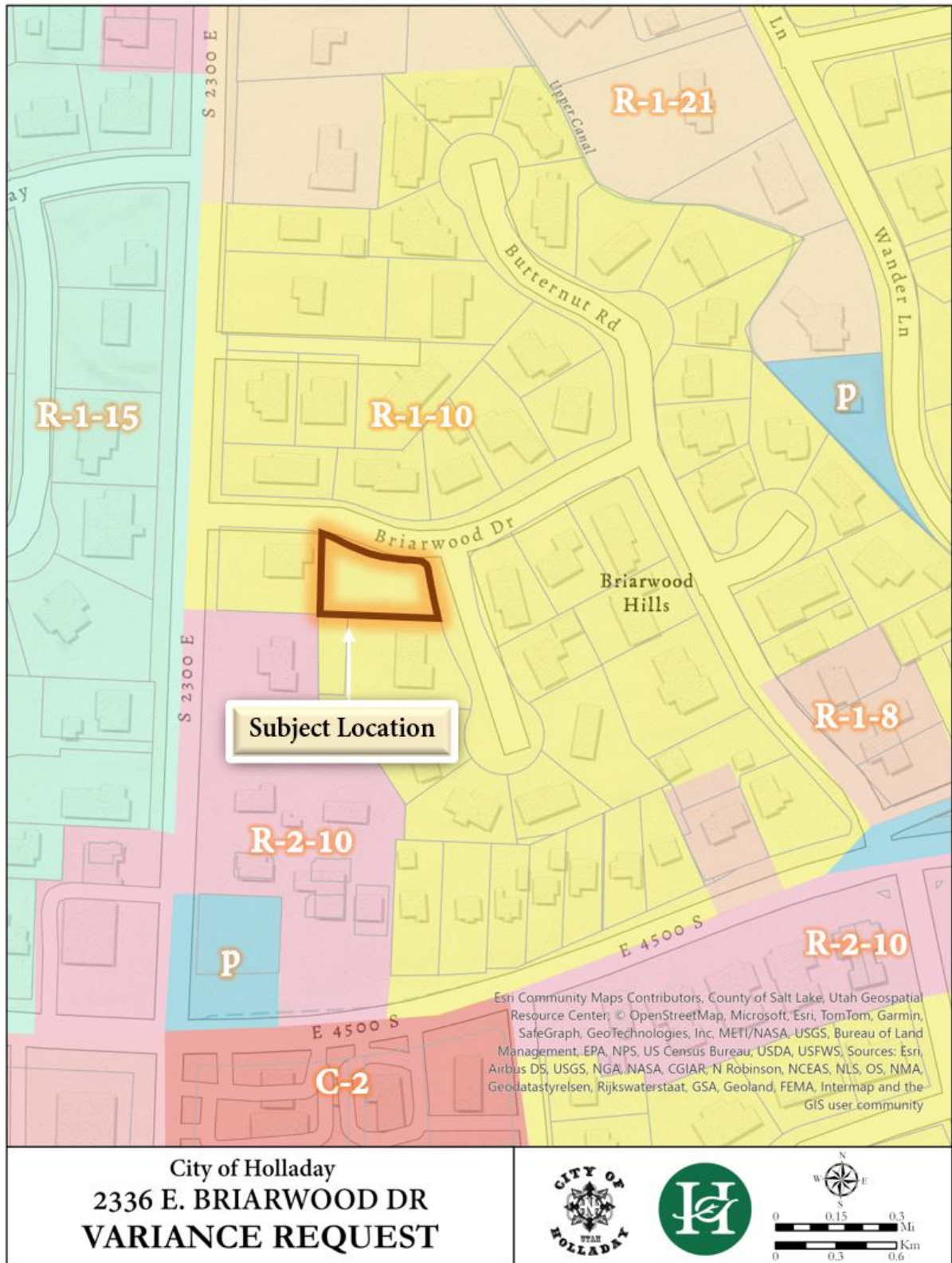
- Affidavit of Property Ownership
- General Appeal Application
- Variance Request
- Applicant's Narrative
- Site Plans and Relevant Designs and Plans

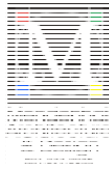


City of Holladay  
2336 E. BRIARWOOD DR  
VARIANCE REQUEST









30 August 2024

Narrative

A. Type of Variance requested.

- a. Front Yard average setback reduction from 32' – 6 3/8" to 25' – 2 15/16"

B. Code requirement.

- a. 13.14.057: CORNER SIDE SETBACKS:
  - i. The minimum corner side setback for any main structure on a public street, private road or private lane shall be twenty feet (20'). (Ord. 2012-15, 9-20-2012)
- b. 13.14.054: FRONT SETBACKS:
  - i. 5. When the subject lot is a corner lot, the average setback will be computed on the basis of the three (3) adjacent lots on the same street as the subject lot.

C. State purpose of variance.

- a. To allow the current lot to have a reasonable building envelope to build within.

D. Following points

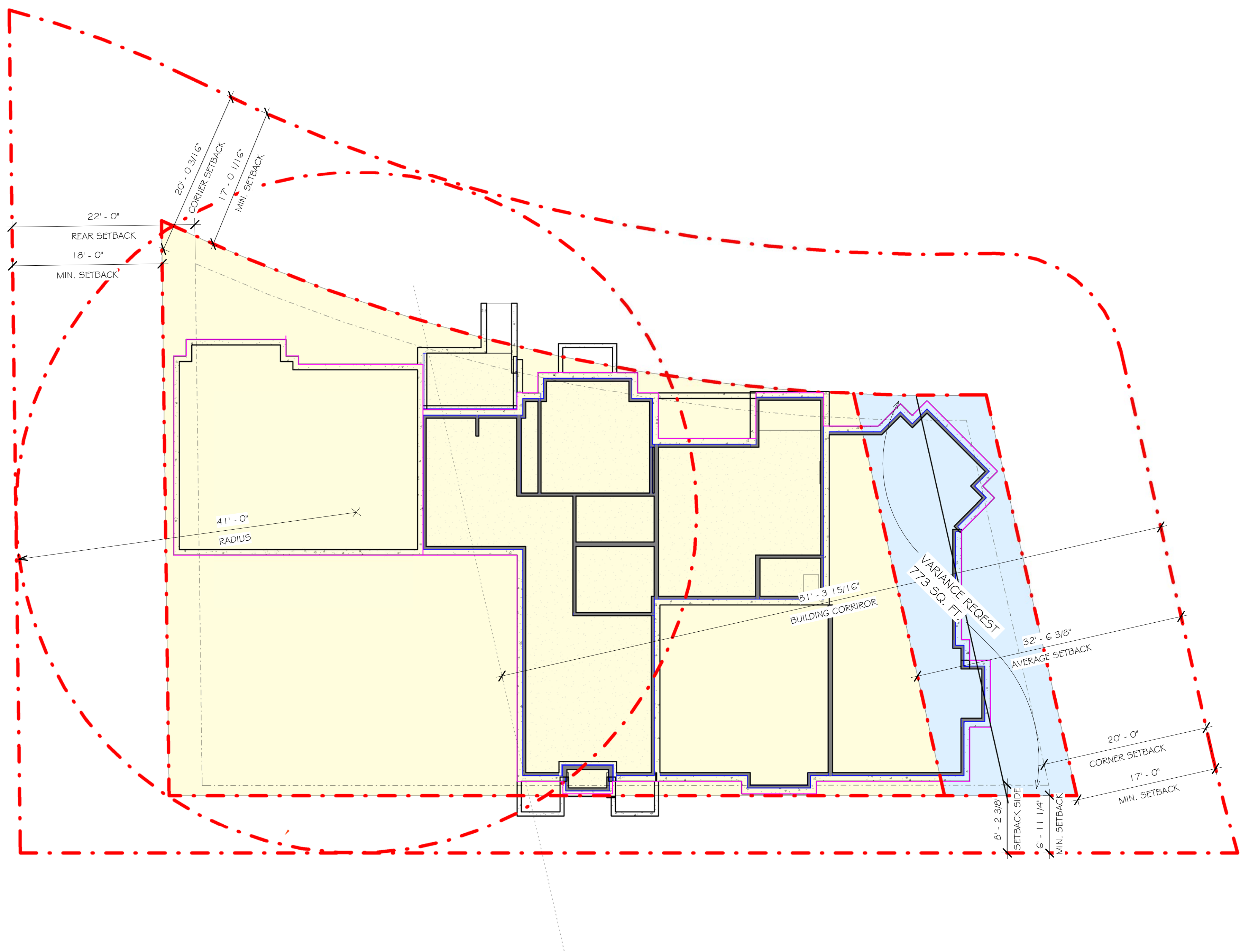
1. Hardship incurred if variance is not granted.
  - a. The building front yard setback under current average setbacks would create a 32' – 6 3/8" front yard. This significantly reduces the buildable area of the lot.
  - b. See attached Site Plan.
2. Property difference from other properties.
  - a. The lot was subdivided into 2 lots. The shape and being a corner lot is unique to the neighborhood.
  - b. As mentioned above the Code requires a 20' setback for corner lots.
  - c. The other lots used to establish the average setback are located within a cul-de-sac and have varying front yard setbacks and conditions.
  - d. See attached Site Plan – Neighborhood. Cul-de-sac lots are pie shaped, which pushes the house further from the front property line. This creates a larger "average setback" than if they were square lots.
3. Benefit other properties, same zoning enjoy.
  - a. The neighbor across the street (4405 S. Briarwood Cir.) is also a corner lot. It has an average setback of 20.2'.
  - b. Will enhance the visual quality of the neighborhood and will add value to the neighborhood.
  - c. This would allow for a structure that other property owners enjoy.
4. Not deviate from general purpose of Holladay code.
  - a. The proposed home, with the variance, would still comply with all Holladay codes, including, Site coverage and impermeable surface requirements. Height limits and view corridor requirements. It will comply with code 20' Corner Side Setbacks.



5. Variance conforms to intent of zoning.
  - a. With a granted variance, the home would still follow the code for the corner setback, side yard setbacks, height limit and view corridor.
  - b. 13.32.080: SETBACK REGULATIONS:
    - i. A. Purpose: ..... Setbacks should vary proportionally depending upon the size and shape of the properties and also upon the type of the existing and proposed land use. In some instances setbacks should be uniform assuming there is a specific desired outcome for the setback, such as protection of views, public safety, economic development, etc. In other instances, variability and flexibility of setback may produce equally important outcomes such as the protection of natural features, aesthetically pleasing streetscapes, creativity in architectural design, and retention of fragile housing stock or other important goals. Due to the evolution of housing styles over the last few decades, the relative high value of land within the community, the desire for architectural creativity, and especially the dramatic increase in average house size, setbacks shall be applied within a flexible envelope. (Ord. 2012-15, 9-20-2012)

Sincerely

Nolen L. Mendenhall  
Architect  
Mendenhall Architecture & Design LLC  
801.277.2935

$$1/8'' = 1'-0''$$


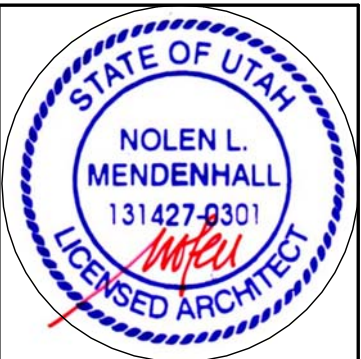
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 $1/8'' = 1'-0''$

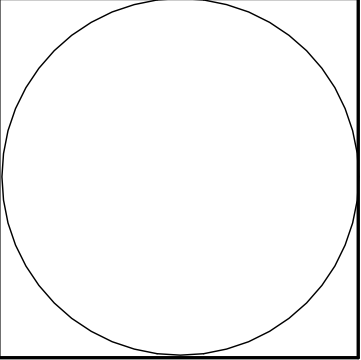


Mendenhall  
Architecture  
& Design, LLC

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SALT LAKE CITY, UT 84117  
801.277.2935



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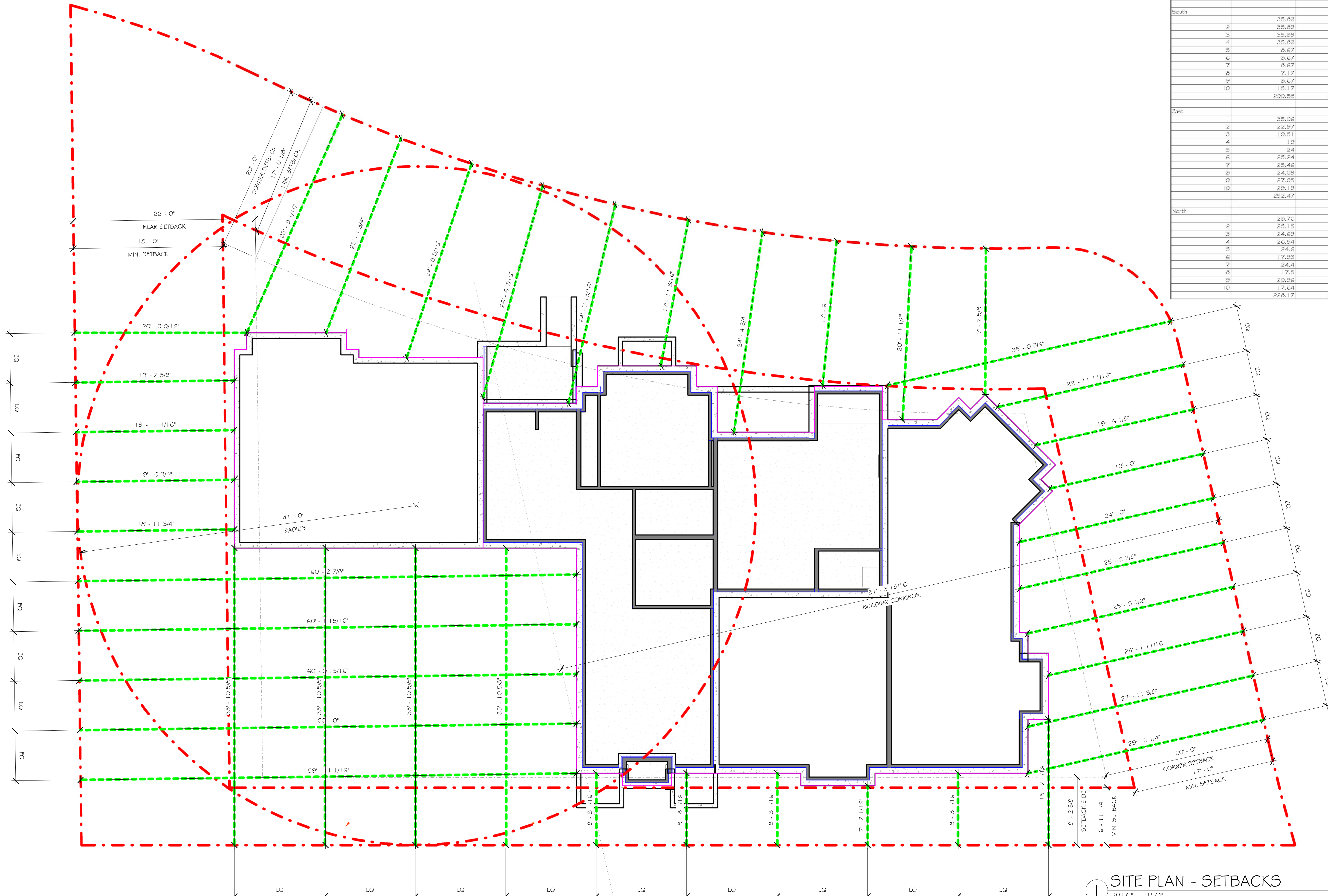
project:  
CHRISTENSEN RESIDENCE  
2336 EAST BRIARWOOD DRIVE  
HOLLADAY, UTAH 84117

| revisions: |      |             |
|------------|------|-------------|
| DATE       | MARK | DESCRIPTION |
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| Drawn by                      | Author     |
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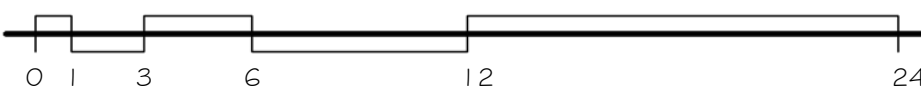
SETBACKS  
  
AO.2

| West  | Feet Fraction | Average Fraction | Average        |
|-------|---------------|------------------|----------------|
| 1     | 20.8          |                  |                |
| 2     | 19.22         |                  |                |
| 3     | 19.17         |                  |                |
| 4     | 19.14         |                  |                |
| 5     | 18.98         |                  |                |
| 6     | 60.27         |                  |                |
| 7     | 60.17         |                  |                |
| 8     | 60.09         |                  |                |
| 9     | 60            |                  |                |
| 10    | 59.92         |                  |                |
|       | 397.76        | 39.776           | 39' - 9 1/4"   |
| South |               |                  |                |
| 1     | 35.89         |                  |                |
| 2     | 35.89         |                  |                |
| 3     | 35.89         |                  |                |
| 4     | 35.89         |                  |                |
| 5     | 8.67          |                  |                |
| 6     | 8.67          |                  |                |
| 7     | 8.67          |                  |                |
| 8     | 7.17          |                  |                |
| 9     | 8.67          |                  |                |
| 10    | 15.17         |                  |                |
|       | 200.58        | 20.058           | 20' - 0 9/16"  |
| East  |               |                  |                |
| 1     | 35.06         |                  |                |
| 2     | 22.97         |                  |                |
| 3     | 19.51         |                  |                |
| 4     | 19            |                  |                |
| 5     | 24            |                  |                |
| 6     | 25.24         |                  |                |
| 7     | 25.46         |                  |                |
| 8     | 24.09         |                  |                |
| 9     | 27.95         |                  |                |
| 10    | 29.19         |                  |                |
|       | 252.47        | 25.247           | 25' - 2 15/16" |
| North |               |                  |                |
| 1     | 28.76         |                  |                |
| 2     | 25.15         |                  |                |
| 3     | 24.69         |                  |                |
| 4     | 26.54         |                  |                |
| 5     | 24.6          |                  |                |
| 6     | 17.93         |                  |                |
| 7     | 24.4          |                  |                |
| 8     | 17.5          |                  |                |
| 9     | 20.96         |                  |                |
| 10    | 17.64         |                  |                |
|       | 228.17        | 22.817           | 22' - 9 13/16" |



1 SITE PLAN - SETBACKS

3/16" = 1'-0"





**VARIANCE APPLICATION  
REQUEST FOR APPEAL OFFICER ACTION**

~~~~~  
SEPTEMBER 09, 2024

REQUEST: CORNER SIDE SETBACK VARIANCE
ADDRESS: 4930 S. WESTMOOR ROAD, HOLLADAY, UT 84117
APPLICANT: HOLLADAY HEIGHTS SUBDIVISION LLC.
FILE NO: 24-5-04
STAFF: JUSTICE TUFFOUR, (*City Planner & GIS Manager*)
APPEAL OFFICER: MR. FRANK NAKAMURA

PROPERTY INFORMATION

ACREAGE: 0.25 acres (10,890 square feet)
GENERAL PLAN: Low Density Residential - Stable (LDR-S)
ZONE: R-1-10
CURRENT USE: Single Family Residential (SF-Residential)
GOVERNING ORDINANCES: Title §13.14.057: Corner Side Setbacks; Title §13.09.020: "Variance"

REQUEST

The applicant seeks an exception to the regulations outlined in the City of Holladay Code Title §13.14.057 {pertaining to Corner Side Setbacks}, which governs the minimum corner side setback on a public street, private road or private lane. The appellant is requesting to be granted a relief from the prescribed 20 ft standard corner side setback, proposing to maintain a 12.4 ft side yard setback (*representing 15% of the lot width*). The requested exception herein would constitute a 6.6 ft corner side setback variance, which would run with the land in perpetuity.

PROPOSAL BACKGROUND

The appellant and agent, Holladay Heights Subdivision LLC and Peter Gamvroulas, have filed an appeal with the Administrative Hearing Officer seeking a variance to the above portions of the City of Holladay Zoning Ordinance Chapter 13, specifically pertaining to the minimum corner side setback distance required for any main structure. The applicant has proposed the construction of a new home on the subject property – which is a corner lot in the new Holladay Peaks subdivision. The property is located at 4930 S Westmoor road was formally the site of a Church of Jesus Christ of Latter-Day Saints meeting house. The applicant has completed the installation of the subdivision improvements and recording of the plat – with building permit application(s) yet to be submitted. The applicant has determined that the application of the Holladay city code §13.14.057 – regarding Corner Side Setbacks – would restrict their proposed development on Lot 105 (*located on the north-western corner of the subdivision*). Given that Lot 105 is located on the intersection of Westmoor Road and Delaware Lane, the aforementioned setback zoning regulation requires all main structures on a corner lot to be assessed at 20 ft. The applicant is of the opinion that Lot 105 merits certain unique conditions to be assessed using a typical side yard setback regulation {Ord. §13.14.056}



CITY OF HOLLADAY

instead of a corner side setback regulation {Ord. §13.14.057}. They are hereby requesting a relief from the Code requirement related to a standard 20 ft corner side setback {Ord. §13.14.057}, in turn seeking permission to maintain a 12.4 ft side yard setback from the east side of property line {Ord. §13.14.056}. Additional information regarding the applicants' narrative, supporting documents including site plan, and proposed side yard setbacks are attached herewith (*see applicants' narrative and supporting documents*).

HOLLADAY CITY CODE

Holladay City Ordinance §13.14.050: SETBACKS:

1. A. Purpose: The spacing of buildings and structures away from property lines, rights-of-way, physical hazards and natural features such as streams and other buildings, are essential elements of land use planning and of urban design. In particular, setbacks may provide for privacy, light, shadow, air movement, passive and active space, vegetation and also contribute directly to physical and psychological wellbeing. Setbacks should vary proportionally depending upon the size and shape of the properties and also upon the type of the existing and proposed land use. In some instances, setbacks should be uniform assuming there is a specific desired outcome for the setback, such as protection of views, public safety, economic development, etc. In other instances, variability and flexibility of setback may produce equally important outcomes such as the protection of natural features, aesthetically pleasing streetscapes, creativity in architectural design, and retention of fragile housing stock or other important goals. Due to the evolution of housing styles over the last few decades, the relative high value of land within the community, the desire for architectural creativity, and especially the dramatic increase in average house size, setbacks shall be applied within a flexible envelope.
- B. Implementation: Averaging of setbacks in all yard areas shall be allowed as shown below. Variations across the setback line may not exceed fifteen percent (15%) of the minimums required. Calculation of the average shall require at least ten (10) equally spaced measurements across any one "building line", as defined in section 13.04.040 of this title, and shown in figure 13.14.051 of this subsection.

Holladay City Ordinance §13.14.057: CORNER SIDE SETBACKS:

The minimum corner side setback for any main structure on a public street, private road or private lane shall be twenty feet (20').

Holladay City Ordinance §13.14.056: SIDE SETBACKS:

- A. The combined setbacks for any main structure on a lot in any R-1 zone shall be a minimum of twenty five percent (25%) of the "lot width" (see chapter 13.04, "Definitions", of this title) with no one side setback less than ten percent (10%) of the lot width.
- B. The combined setback for any main structure on a lot measuring twice or more the minimum lot size required by the zone in which it is located shall be a minimum thirty percent (30%) of the "lot width" (*see chapter 13.04, "Definitions", of this title*) with no one side setback less than fifteen percent (15%) of the lot width.

APPROVAL STANDARDS

FIVE-PART TEST FOR VARIANCE:

The Hearing Officer may grant a variance only if:

1. **Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance.** In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship, the board of adjustment may not find an



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unreasonable hardship unless the alleged hardship: 1) is located on or associated with the property for which the variance is sought; and 2) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood. The hardship cannot be self-imposed or economic.

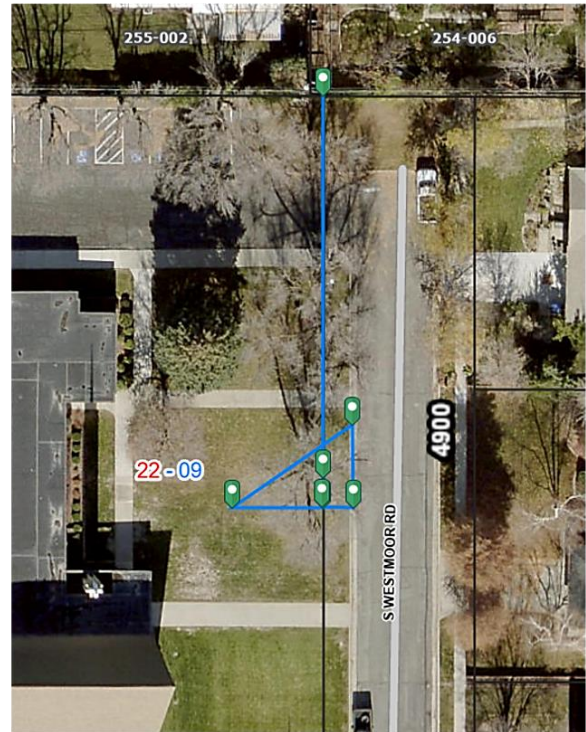
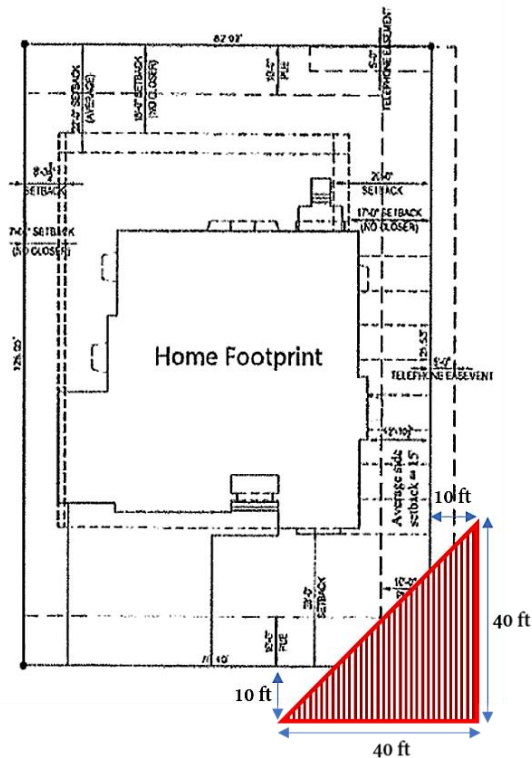
2. **There are special circumstances attached to the property that do not generally apply to other properties in the same zone.** The Hearing Officer may find that special circumstances exist only if the special circumstances: 1) relate to the hardship complained of; and 2) deprive the property of privileges granted to other properties in the same zone.
3. **Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.**
4. **The variance will not substantially affect the General Plan and will not be contrary to the public interest.**
5. **The spirit of the zoning ordinance is observed and substantial justice is done.**

STAFF FINDINGS (ANAYLSIS)

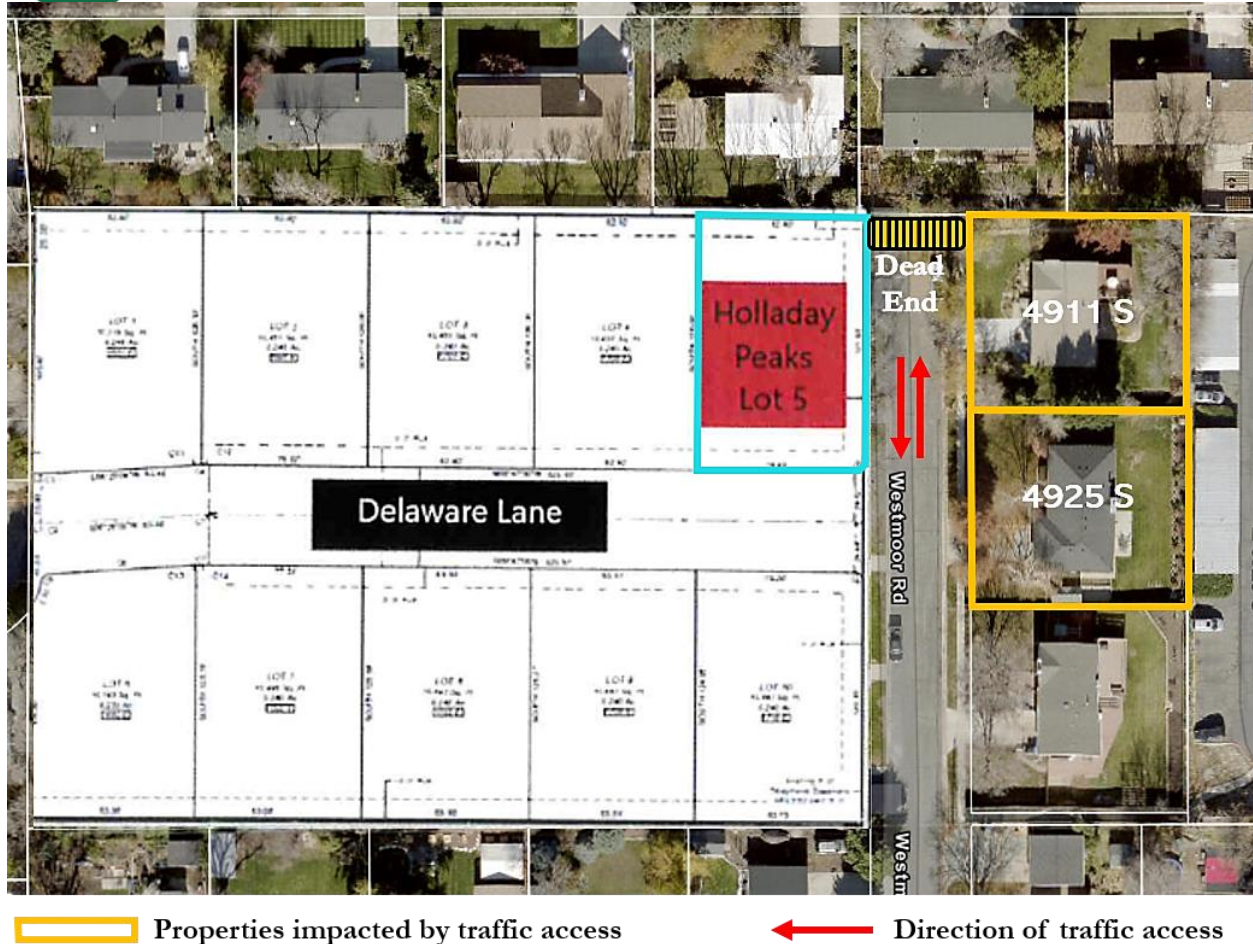
(Staff does not vote on these matters and acts only in an advisory position on the technical aspects of the application)

Generally, these findings are determined premised on the city staff's administrative interpretation of Holladay city's applicable ordinances, context characteristics of the subject property, the purpose of the code, and the overall neighborhood character in relation to the variance request.

- **Purpose of Setback Ordinance 13.14.054:** Pursuant to the Holladay city ordinance regulating setbacks for corner lots, the minimum corner side setback for any main structure on a public street, private road or private lane shall be twenty feet (20') {Ord. § 13.14.054}. The general purpose or intent of this standardized 20 ft setback distance for main structures on corner lots is to "safeguard the public health, safety, and welfare" by way of regulating the *spacing of buildings and structures away from property lines, rights-of-way, physical hazards and natural features*. Ultimately, these spacing regulations seek to provide for privacy, light, shadow, air movement, passive and active space, vegetation and also contribute directly to physical and psychological wellbeing. City staff has determined that the critical factors in assessing conformance with the general purpose or intent of this ordinance are whether the public safety element is compromised, particularly regarding clear view restrictions, impacts on traffic flow, and pedestrian safety.
- **Impact on clear view restrictions:** As per the provisions of Holladay city code on clear view restrictions {Ord. § 13.76.710(H)1}, "No obstruction in excess of two feet (2') in height shall be placed within the required clear view area of a corner lot". Our spatial analysis indicates that the proposed location of the main house does not conflict with or compromise the provisions of the clear view restrictions. More specifically, the building would be setback at least 30 ft from the west-to-east horizontal clear view restriction zone and 14 ft from the north to south vertical clear view restriction zone. See the figure below for the clear view restriction assessment and findings.



- **Impacts on thru-traffic and pedestrian safety:** Our analysis also indicates that the proposed location of the structure would have minimal to no impact on thru-traffic. This conclusion is based on the characteristics of the roadway intersection at Westmoor Road and Delaware Lane. The proposed structure is set to maintain a reduced setback on the east side of the property, adjacent to Westmoor Road. As such, traffic impacts and pedestrian safety should primarily be evaluated based on connectivity and access from the corner of Delaware Lane, traveling northbound to Westmoor Road. However, our assessment reveals that the access from the corner of Delaware Lane – North bound to Westmoor Road dead-ends abruptly after 150 ft. This suggests that the traffic to and from the corner of Delaware Lane – North bound to Westmoor Road would be largely limited to and generated by the two properties situated east of the applicant's property (*i.e.*, 4911 S Westmoor and 4925 S Westmoor Road). Given that this portion of the travel lane primarily serves as access for these two neighboring lots, we have determined that the proposed structure would not significantly affect thru-traffic or pedestrian safety in a manner detrimental to the public interest (*See the nature of the roadway intersection and access below*).



STAFF COMMENTARY & RECOMMENDATION

Pursuant to State Law and Holladay City's Quasi-Judicial Procedures regarding variance requests, the burden of proof lies with the applicant to convincingly argue before the Administrative Appeals Officer that one or more conditions related to the property they represent hinders the applicant's reasonable use of their land in a manner and form comparable with that enjoyed by their neighbors or other properties in a similar situation and zoning district. Each variance application is reviewed on a case-by-case basis and the merits of the matter are assessed in a public forum. Any public testimony received in response to notifications provided via public notice, the City's websites, and any comments or recommendations by City Departments or external agencies have been presented to the Administrative Appeals Officer for their consideration. Below, the City staff assigned to this case provides commentary and recommendations on each of the five-part approval standards for this variance application.

Describing what hardship will occur if variance is not granted.

Concerning the appellant's demonstration of unique circumstances or an unreasonable hardship making it exceptionally difficult to comply with the zoning regulations, two site plans were submitted to demonstrate their burden of proof. The applicant contends that, with the required 20 ft corner side setback, the footprint of their proposed home would extend 3 ft outside the permitted setbacks (*See site plan exhibit attached*). A technical review of applicable zoning laws indicates that compliance with the corner side setback requirement would require either



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a modification of the homebuyer's chosen building design or shifting the building envelope west-ward of the property (*which would fail to meet side yard setback on the west side of the property*). While the first alternative addresses a self-imposed limitation due to design preferences, the second alternative would not allow compliance with the setback requirements on both the west and east sides. It is important to consider that, although the hardship condition cited by the applicant is not unique to this specific property, the rationale for granting this exception should be evaluated in the context of the limitations imposed on their building rights. City staff suggests that the justification for accommodating this hardship must be clearly and convincingly presented by the applicant during the public hearing.

Describing how the property is different from other properties within the vicinity.

Regarding the presence of special circumstances associated with the property or within the vicinity, the applicant has articulated how their property distinguishes itself from other properties within Holladay Peaks subdivision by outlining the property characteristics in the narrative. It is worth noting that the subject property shares similar shape, size, and orientation characteristics with the lot directly across the street in the Holladay Peaks subdivision (*i.e., Lot 10 – south western-most corner of the subdivision*). The developers have indicated that Lot 10 complies with all setback requirements, including corner side setback regulations. However, the most significant characteristic relevant to special circumstances that set the subject property apart from others within the vicinity is nature of the intersecting street abutting the lot to the east. The applicant submits that Westmoor Road does not continue as a street and functionally terminates prior to the end of the lot. Therefore, this distinction makes the subject lot different in characteristics from a typical corner lot. In this regard, the circumstance would enable them to comply with the requirements of Holladay city ordinance for standard side yards {Ord. §13.14.056}. City staff acknowledges that the termination of Westmoor Road and the resulting traffic flow make the subject property somewhat unique in comparison to other corner lots in the vicinity, potentially justifying a slightly different application of ordinance standards. City staff is of the opinion that granting an exception to the ordinance requirements in section §13.14.057 should be carefully considered, with emphasis on requiring compliance with the side yard setback zoning regulation {Ord. §13.14.056}.

Describing benefits other properties in the vicinity will enjoy at the expense of Applicant without a variance.

In demonstrating how granting the variance is necessary to the enjoyment of a substantial property right possessed by other property in the same district, the circumstances do not apply to this effect. As previously noted, Lot 10 is the only property within the subdivision and neighborhood that shares comparable characteristics with the subject property. However, Lot 10 does not enjoy exceptional benefits or property rights at the expense of the applicant's property. City Staff believes that granting the variance to the applicant under this criterion would not be essential to the substantial enjoyment of property rights and common privileges enjoyed by other properties in the vicinity.

Describing why the variance will not deviate from the general purposes of the City of Holladay development code

Concerning impacts on the General Plan that are not contrary to the public interest, the ordinance provisions as pertaining to setbacks §13.14.057 and §13.14.056 are not explicitly captured in the General Plan. While setbacks do not significantly impact the general plan, discussions surrounding setbacks and neighborhood feel remain significant public interest concerns. On the one hand, site-level development standards and location of structures within single-family residential neighborhoods do not constitute substantial deviance from the city's general development code. City staff analysis indicates that granting the variance would not negatively impact the public interest or defeat the purpose of the ordinance regulations on setbacks pertaining to "*provide for privacy, light,*



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shadow, air movement, passive and active space, vegetation and also contribute directly to physical and psychological wellbeing”.

Describing how the variance is fair and conforms to the overall intent of the zoning laws

In aligning with the general intent of zoning laws and fairness, the supplementary evidence and spatial analysis conducted by City Staff shows that the requested variance conforms to the overall intent of the zoning laws – specifically setback ordinance §13.14.050(A). Granting the variance appears to align with the intent and spirit of the setback ordinance which seeks to promote equally important outcomes that protect traffic and pedestrian safety, enhance streetscapes, retain housing stock, and promotes aesthetically pleasing environments for the community. Recognizing the importance of fairness in applying setback requirements from the City Code, section §13.14.050(A) advocates for variability and flexibility of setbacks based on property characteristics and context to produce equal outcomes. This would be especially useful to rectifying the disproportionate impact of applying uniform setback standards on properties with unique characteristics. City Staff concludes that granting the variance to maintain the proposed 12.4 ft side yard setback from the east side of property line {Ord. §13.14.056} would safeguard the fairness principle is accommodated while upholding the spirit of zoning intent.

RECOMMENDATION

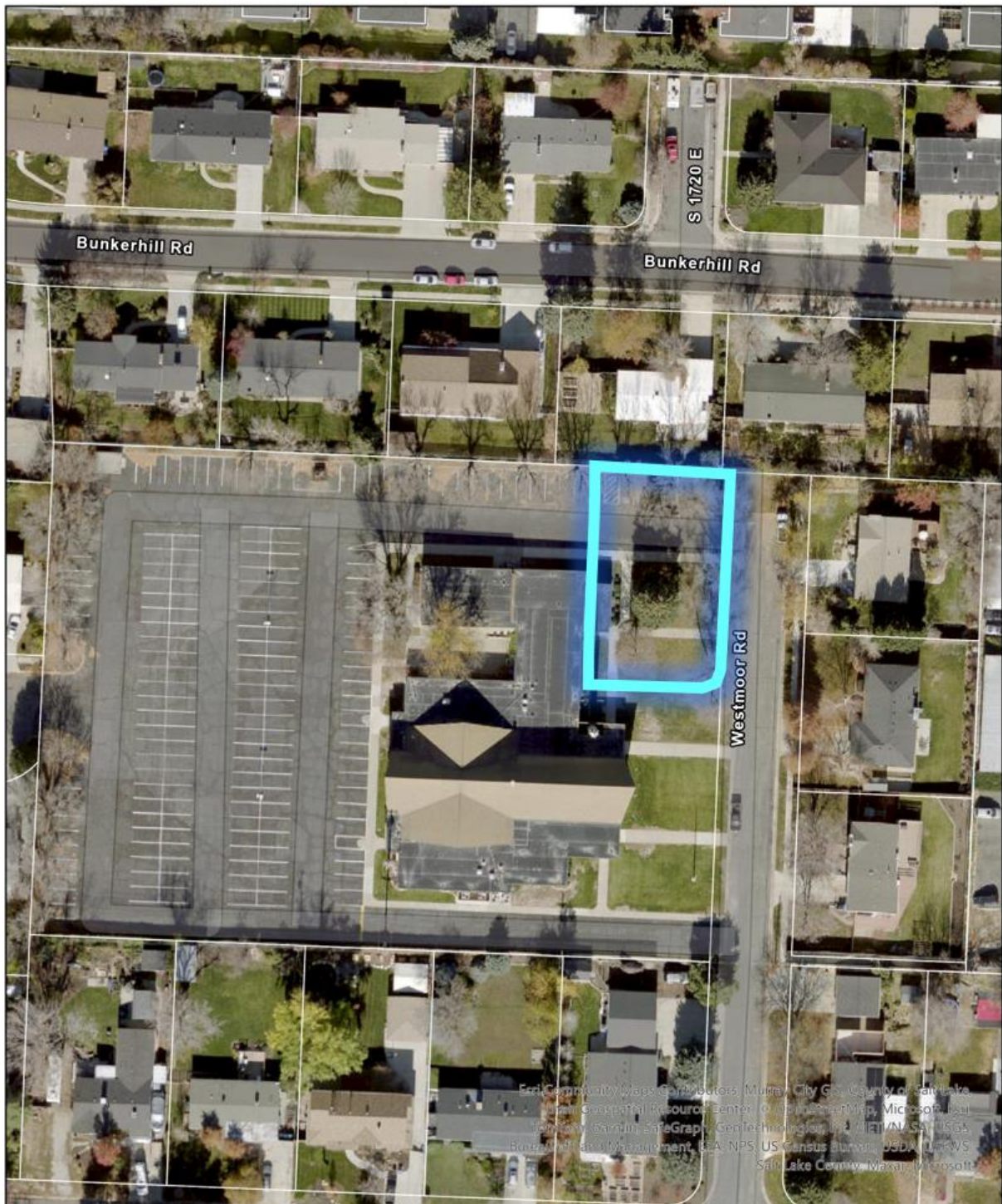
Concluding from the City Staff's technical review of City Code, analysis of property characteristics of the context, and adjoining roadway configuration, granting the 6.6 ft corner side setback variance request appears to be the least intrusive solution to upholding the spirit of zoning as outlined in section §13.14.050(A). Discussions regarding denials or approval should be moderated by the Administrative Appeals Hearing Officer by examining of the language of City Code (*on sections §13.14.050 and §13.14.054*), the applicant's narrative, staff recommendation, and proceedings from the public hearing, as well as other submissions received herein. From the City Staff's perspective, the subject property merits unique circumstances and the variance request passes the five-part test for approval standards. Approval is Recommended.

POSSIBLE MOTIONS

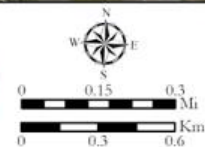
- ❖ Deny the variance request.
- ❖ Approve variance as requested.
- ❖ Approve variances with revised/alternative mitigation methods.
- ❖ Remand the request back to CED for consideration (*reschedule date should be set during this meeting*)

SUPPORTING DOCUMENTS

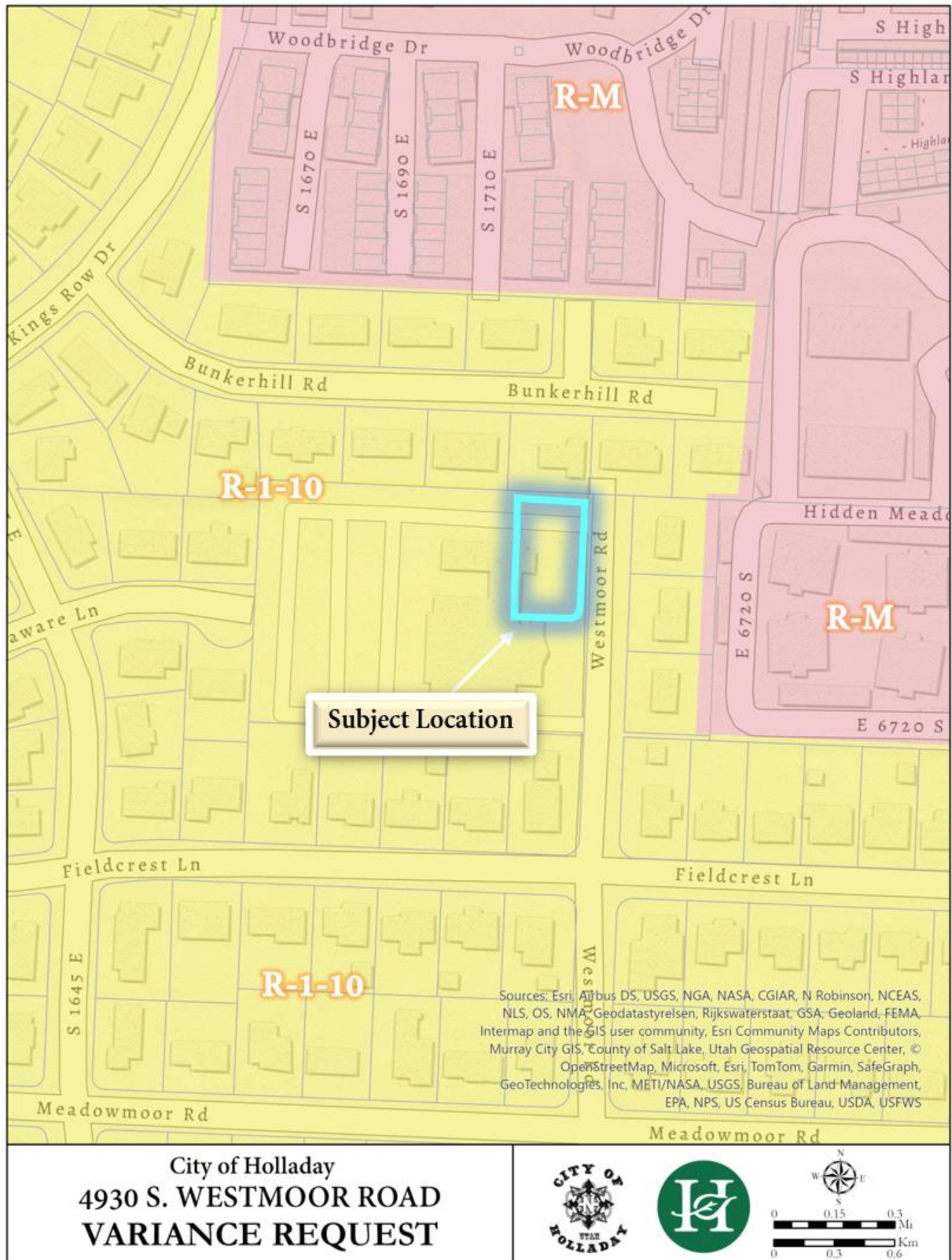
- Affidavit of Property Ownership
- General Appeal Application
- Variance Request
- Applicant's Narrative
- Site Plans and Relevant Designs and Plans



City of Holladay
4930 S. WESTMOOR ROAD
VARIANCE REQUEST







Variance Request
Holladay Peaks Subdivision (to be recorded)
Lot 105
September 6th, 2024

Type of Variance

Corner Side Setback Variance (Holladay City Code 13.14.057)

Background

The Property, located at 4930 South Westmoor Road, was formally the site of a Church of Jesus Christ of Latter-Day Saints ("LDS Church") Meeting House. The LDS Church recently sold the property as a development opportunity. The applicant purchased the Property and worked to entitle a 10-Lot Subdivision by the name of Holladay Peaks Subdivision 4930 South Westmoor Road. Subdivision improvements have been installed and recordation of the plat is expected within the next two-three weeks. Building permit applications will be following shortly thereafter. The determination of this Variance Request will affect the building pad of Lot 105 of the Subdivision.

Variance Request

The applicant requests that through variance the east side of Lot 105 be treated as a standard Side Yard with a base minimum setback of 15% of Lot Width (§13.14.056) rather than a Corner Side Yard with a base minimum setback of 20 feet (§13.14.057).

Purpose of Variance

The variance is being applied for to promote the enjoyment of a substantial property right for Lot 105. Consideration of the Side Yard based on §13.14.056 rather than §13.14.057 will grant the eventual owner of Lot 105 to realize the same buildable portion of property for a similar sized lot as other nearby properties that do not include a *Corner Side*. As is discussed herein, the unique nature of the west side of this Lot includes special circumstances that are not standard in the R-1 Zone.

Narrative

Lot 105 is uniquely situated at the corner of Westmoor Road and Delaware Lane. Until the development of Holladay Peaks Subdivision, Delaware Lane did not intersect with Westmoor Road and terminated in a half-cul-de-sac approximately 420 feet to the west. The Westmoor Road Right-Of-Way ("ROW") technically terminates at the north end of Lot 105, however, roadway improvements terminate approximately 24 feet south of Lot 105's northern border. Functionally, therefore, Westmoor Road does not run the entire length of Lot 105.

The Westmoor ROW abruptly terminates at the south boundary of the Crown Colony Subdivision and, barring Holladay City's condemnation of the Home and Lot to the north (Crown Colony Lot 94), Westmoor will never continue northward as a thoroughfare.

Given these unique circumstances, the portion of Westmoor Road north of Delaware Lane does not serve as any meaningful thoroughfare and has little public benefit beyond offering frontage for Holladay Peaks Lot 105, Shaleh Estates Lot 1, and a fraction of Shelah Estates Lot 2.

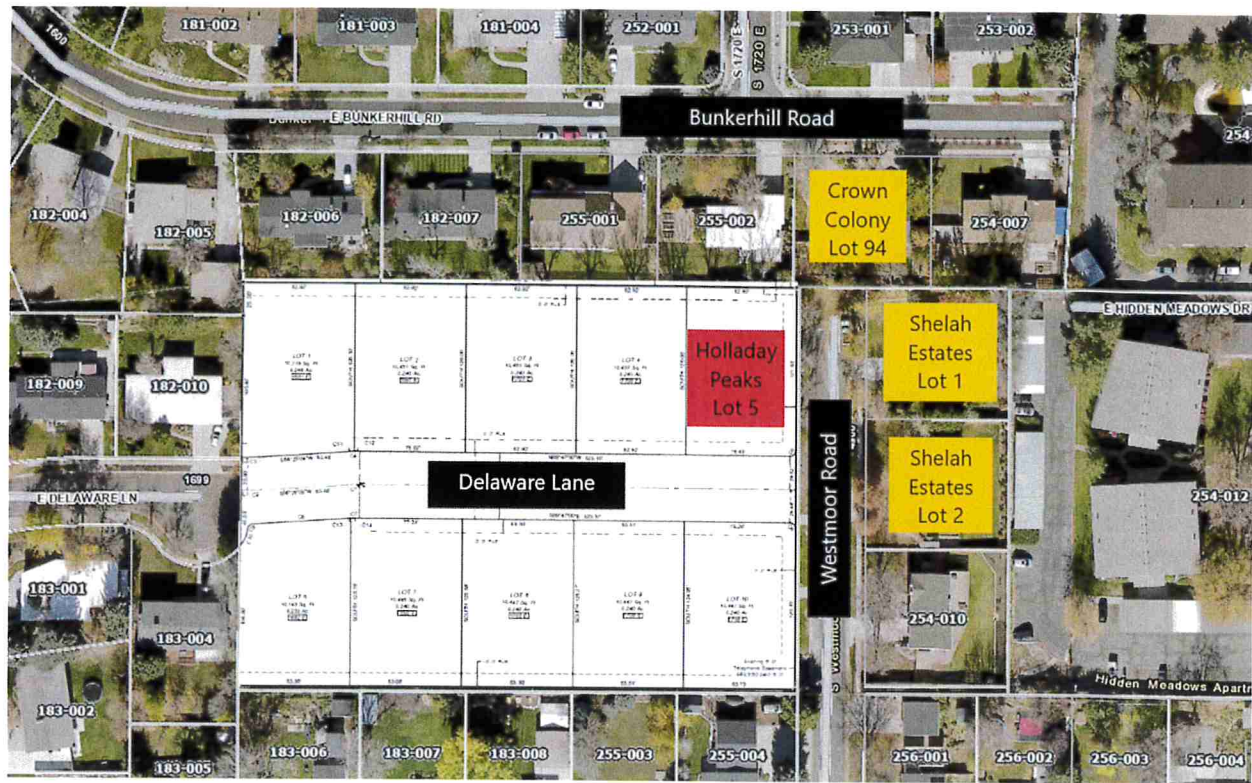


Image 1: Overlay of Holladay Peaks Subdivision Plat on Salt Lake County Assessor Map

The Purpose of Setbacks is defined in §13.14.050.A

“The spacing of buildings and structures away from property lines, rights-of-way...and other buildings... are essential elements of land use planning and of urban design. In particular, setbacks may provide for privacy, light, shadow, air movement, passive and active space, vegetation and also contribute directly to physical and psychological well being. Setbacks should vary proportionally depending upon the size and shape of the properties and also upon the type of the existing and proposed land use. In some instances setbacks should be uniform assuming there is a specific desired outcome for the setback, such as protection of views, public safety, economic development, etc. In other instances, variability and flexibility of setback may produce equally important outcomes such as the protection of natural features, aesthetically pleasing streetscapes, creativity in architectural design, and retention of fragile housing stock or other important goals. Due to the evolution of housing styles over the last few decades, the relative high value of land within the community, the desire for architectural creativity, and especially the dramatic increase in average house size, setbacks shall be applied within a flexible envelope.

While not explicitly defined in Holladay Code, corner side yard setbacks are greater than standard side yard setbacks because the corner side effects the street scape of the two cross streets. Furthermore, the increased corner side yard setback acts to free up larger site triangles for vehicular visibility.

§13.04.030 Definitions and Terms; LOT, CORNER

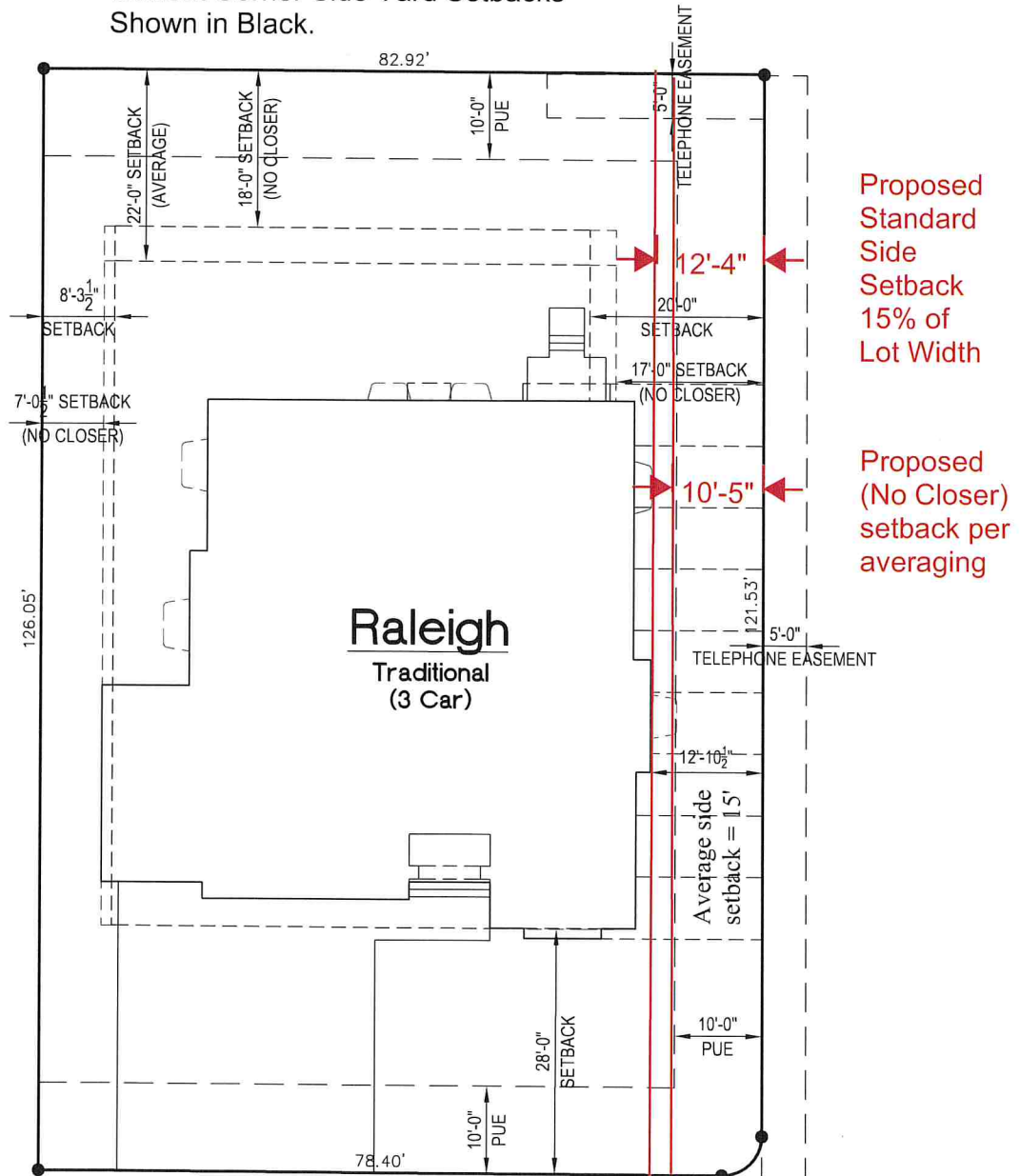
Image 2: Proposed Home Footprint for Lot 105

Exhibit "A"

Proposed Site Plan

Standard Side Yard Setbacks
Shown In Red.

Current Corner Side Yard Setbacks
Shown in Black.



5

Holladay Peaks
10,446 sqft