

**BOUNTIFUL CITY**  
**PLANNING COMMISSION AGENDA**  
**Tuesday, October 18, 2016**  
**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 October 4, 2016.
3. Consider the approval of the Findings of Fact for approval of a variance to minimum driveway separation for single family homes located at 1435 N East Hills Circle, Michael Brown, applicant and 1447 N East Hills Circle, William Marsh, applicant.
4. Consider the approval of the Findings of Fact for denial of a side yard setback variance for an addition to a single family home located at 484 E 1600 South, David & Laurel Lindsay, applicants
5. Consider preliminary subdivision approval for East Orchard Subdivision located at 2343 S 200 W, Wright Development Group representing James East, owner.
6. **POSTPONED - PUBLIC HEARING** – Consider amending the provisions of Chapter 14 of the Bountiful City Land Use Ordinance related to approval process of Conditional Use Permits for Solar Power Plants.
7. Val Verda Discussion.
8. Planning Director's report, review of pending applications and miscellaneous business.

  
Chad Wilkinson, City Planner

**Bountiful City  
Planning Commission Minutes  
October 4, 2016  
6:30 P.M.**

Present: Chairman – Sean Monson; Vice Chairman – Mike Allen; Planning Commission Members – Dave Badham; Von Hill, and Sharon Spratley; City Council Representation - Richard Higginson; City Attorney – Clinton Drake; City Planner – Chad Wilkinson; City Engineer – Paul Rowland; and Recording Secretary – Darlene Baetz

Excused: Planning Commission Member – Tom Smith

**1. Welcome and Introductions.**

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

**2. Approval of the minutes for October 4, 2016.**

Von Hill made a motion to approve the minutes for October 4, 2016 as written. Mike Allen seconded the motion. Voting passed 6-0 with Commission members Allen, Badham, Higginson, Hill, Monson, and Spratley voting aye.

**3. PUBLIC HEARING - Consider approval of a side yard setback variance for an addition to a single family home located at 484 E 1600 South, David & Laurel Lindsay, applicants.**

David and Laurel Lindsay were present. Chad Wilkinson presented the staff report.

The applicants, David and Laurel Lindsay, request a variance to the required 8 foot setback from the side property line for an existing detached garage in order to construct an addition to a dwelling. They would like to add approximately 700 square feet to the rear of their existing home. The home was constructed in 1959 along with a detached garage which appears to have been constructed around the same time. The addition will extend the side yard area of the lot to the south placing the existing garage within the side yard. The Land Use Ordinance requires that accessory structures in side yards meet the setbacks for a primary structure which in the case of the R-4 zone is 8 feet. The existing garage is located on the east property line with approximately 18 inches of setback from the adjoining property to the east. The garage has an existing lean-to addition on rear (south) side which creates essentially a zero setback from the rear property line. The Code also requires a minimum 5 foot separation between an accessory structure and a primary structure, measured from eave to eave. The garage currently meets the 5 foot separation standard from the existing home and is considered to be existing legal nonconforming.

**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:** State law indicates that a hardship cannot be self-imposed. In the case of the current request, it is the size of the proposed addition that creates the need for the variance. A smaller addition could be constructed that would not place the garage in the side yard and would not require a variance. If an addition was constructed that maintained the required 5 foot separation from the garage and did not create a situation where the garage was now in a side yard, the garage could be considered existing legal nonconforming and construction could occur without a variance. It is the size of the proposed addition that creates the need for a variance. The size of the addition is a self-imposed condition.

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

**Staff Response:** There are many detached garages in the neighborhood that do not meet the current setback standards. The predominant difference in this case is that it is the proposed construction of an addition that changes the status of the garage and places an accessory structure that was once in the rear yard into the side yard. This change increases the nonconformity of the garage which is not allowed without a variance to the standards of the Code.

(iii) *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;*

**Staff Response:** A smaller addition could be constructed on the home that would not place the existing garage in the side yard. This would allow for an expansion to the home without increasing the nonconformity of the garage. By definition an expansion of the home that leaves the garage in the rear yard would not increase the nonconformity of the garage.

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

**Staff Response:** The setback standards of the ordinance implement the goals and policies of the general plan. If changes to the standards of the ordinance are desirable they should be made through the legislative process. Granting of the variance is not consistent with the public interest of orderly consistent development.

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

**Staff Response:** Setbacks serve the purpose of providing fire separation, preventing overcrowding of development on lots and protecting and enhancing open space on lots. A variance to the setback standards in this case would not be in keeping with the spirit of the land use ordinance.

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

Mrs. Lindsay discussed the importance of this project to their family and the setbacks from 1959 that were placed on the existing building of the home and garage. The new addition would comply with the current setbacks. The current structure at the rear of the garage could be removed without any trouble.

Chairman Monson opened the Public Hearing at 6:40 p.m.

John Marc Knight resides at 438 E 1600 S. Mr. Knight discussed the construction of the other homes in the area from 1961 and didn't see any problem to approving the Lindsay's request.

Bill Brown resides at 531 E 1600 S. Mr. Brown discussed the age of the garage and didn't find anything wrong with approving the variance for the Lindsay's.

Chairman Monson closed the Public Hearing at 6:43 p.m.

Staff discussed the age of the home and previous code when the home and garage was built.

Commission Members and staff discussed the issues for other homes and possible change of an amended ordinance in order to allow additions without the need to grant variances at Planning Commission.

Mrs. Lindsay discussed the spirit of the approval, the setbacks, and the other homes wanting the same approval that have the same problems.

Chairman Monson expressed a concern for approving a variance that does not meet the state code.

Mr. Wilkinson stated the length of the approval of a Bountiful Code would be about 2 to 3 months and discussed the possible wording of a change in the code.

Mike Allen made a motion to deny the requested variance at 484 E. 1600 S based upon the fact that it does not meet the requirements of the statute. Sharon Spratley seconded the motion. Voting passed 6-0 with Commission members Allen, Badham, Higginson, Hill, Monson and Spratley voting aye.

Mike Allen made a motion to recommend to City Council that they consider a revision of the ordinance related to the accessory building statute for side yards. Sharon Spratley seconded the motion. Voting passed 6-0 with Commission members Allen, Badham, Higginson, Hill, Monson and Spratley voting aye.

**4. PUBLIC HEARING – Consider approval of a variance to minimum driveway separation for single family homes located at 1435 N East Hills Circle, Michael Brown, applicant and 1447 N East Hills Circle, William Marsh, applicant.**

Michael Brown and William Marsh were present. Chad Wilkinson presented the staff report.

The applicants request a variance to the required driveway separation standards in order to construct a shared driveway between their properties at 1435 & 1447 N. East Hills Circle.

The applicants are requesting a variance to allow for a shared driveway between their properties. The zoning ordinance requires a minimum separation of 35 feet between driveways on the same property and a minimum 5 feet separation between driveways and the adjacent side property line. The proposed driveway would be located approximately 28 feet from a first driveway on the Brown property. The portion of the driveway on the applicants' properties has already been constructed. While excavating for the driveway approach, the applicants were alerted by a neighbor to the need for a permit to work in the City right of way. When the applicants made contact with the City, they were made aware of the standards that would prevent a second driveway on the Brown property along with the required separation from property line.

In the applicants' submitted narrative, they mention the existence of other shared driveways in the neighborhood. While there are a limited number of shared driveways on cul-de-sac lots in the area, each of those driveways provide primary access to the lots. Staff has not been able to identify another situation where a shared driveway provides a second access to a lot or parcel. It is clear that there are multiple examples of shared driveways throughout the City providing primary access to properties, particularly in cul-de-sac situations. The predominant issue is whether it is appropriate to approve a variance for a second driveway that does not meet the minimum spacing standards.

The narrative identifies the possibility of a "mother-in-law" type apartment in the basement at the Brown property. Any basement apartment would be considered to be an accessory dwelling unit and would require the issuance of a conditional use permit. Second kitchens are allowed but only after recording a deed restriction indicating that there is not a second unit on the property.

The applicant has requested a second variance to the Engineering specifications for driveways related to curb radius. This standard is not part of the land use ordinance and may not be varied by the Planning Commission.

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:

(vi) *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 spacing standards provide for on street parking, but also provide for minimizing traffic conflicts, preserving open space, particularly in front yards, and limiting congestion. It appears that a small parking pad could be constructed on the Marsh property without the need to extend the driveway onto the adjoining property. While a second driveway is a possibility for many lots in the City, it is common for cul-de-sac lots to be limited to one driveway based on their frontage.

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

**Staff Response:** The lots are on a cul-de-sac with limited frontage on a public street, making it difficult to construct a second driveway. However this condition is common in sul-de-sac lots. Similar properties are limited to one driveway approach.

(viii) *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;*

**Staff Response:** The ability to construct a second driveway is always constrained by the available frontage of a lot. While a cul-de-sac lot is constrained by width more than a regular rectangular shaped lot, this constraint is common in cul-de-sac lots. Therefore limiting a second driveway does not deprive a property of rights available to other similar lots.

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

**Staff Response:** One of the purposes of spacing standards for driveways is to preserve open space in

front yards. Granting a variance to allow for a second driveway on a cul-de-sac lot will reduce landscaping and open space in the front yard. The Code requires that at least 50 percent of front yard areas to be landscaped. Reducing landscaping in the front yard of a lot that is already constrained is not consistent with the public interest.

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

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

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

Mr. Brown and Mr. Marsh presented a slideshow containing pictures and information and responded to code about the desire to install the driveway and drive approach. (The presentation is saved in the applicant's file.)

Chairman Monson opened and closed the Public Hearing at 7:30 p.m.

Mr. Wilkinson clarified that item #4 related to variance criteria, staff did not make any findings that the front yard was below 50% of the landscape area. There is a standard for 50% of the landscape area. There was also a second variance in the commission packet related to a curved radius of the drive approach. That variance cannot be considered since it is not part of the zoning ordinance. The flagstone would not be allowed as landscaping.

Mr. Rowland verified that much of the work shown in the photos of the driveways that the applicants presented were done without approval or permits.

Mr. Badham discussed that he agrees with the applicants needs and believes that the cul-de-sac home owners have a need for the extra parking. He stated the hardship for the building of the homes on cul-de-sacs and the front yard 15 ft setback originally built. He believes that the applicants meet the need for this variance.

Mr. Brown verified that the contractor did not realize that a permit was necessary.

Mr. Wilkinson discussed the importance of the aesthetics of the front yard landscaping and the parking standards for Bountiful. The code is silent on shared driveways; however this application does not meet the minimum separation standard between driveways on the same property.

Mr. Rowland discussed that the 15 foot setback was maintained until the 1990's in the Bountiful Code. The primary drainage code had been changed since this project. He also discussed that the primary building pad needs to have drainage out to the street.

Mr. Badham asked for clarification for the draining on the cement pad. Mr. Rowland stated that this a code issue and is not a requirement for the variance approval.

Mr. Wilkinson asked that a condition to be added if the commission members approve the variance. A condition requiring the applicants to record a shared access agreement should be included.

Mr. Higginson clarified that if the variance is granted a portion of the cement may need to be removed.

Mr. Higginson made a motion to deny the requested variance for the curb radius since the Planning Commission members do not have the power to review that at 1435 N East Hills Circle and 1447 N East Hills Circle. Sharon Spratley seconded the motion. Voting passed 6-0 with Commission members Allen, Badham, Higginson, Hill, Monson and Spratley voting

Mr. Higginson made a motion to approve variance for the shared drive approach based on the facts presented by the applicants and that the minimum distance between the driveways is substantially in compliance with the 35 foot at 80% and a condition be added of a shared access agreement. Sharon Spratley seconded the motion. Voting passed 4-2 with Commission members Badham, Higginson, Hill, and Spratley voting aye with Mike Allen and Sean Monson voting nay.

**5. Consider preliminary and final subdivision approval for Fowler Estates Subdivision located at 167 W 1800 S, Jared Bryson representing the Fowler family, applicants.**

Jared Bryson was present. Paul Rowland presented the staff report.

The Fowler family is requesting a lot split subdivision for a 0.68 acre parcel of ground located at 167 W 1800 South. Currently the property is occupied by a single family home (the Fowler home) with a large garden to the west. The family situation has changed and they now desire to split the property into two lots.

The proposed subdivision consists of two lots, both fronting onto 1800 South Street. Both of the lots contain more than the minimum required footage of 11,000 s.f., with the smaller being 12,910 s.f. and the larger containing almost 16,700 s.f. Both lots also have more than the 70 ft. of frontage required in the R4 zone.

The property currently has a single family home with a detached garage. The intention is to keep the existing structures and the proposed lots are laid out to provide for the required side yards.

Because the property is already occupied by a residential dwelling, all of the necessary utilities are available either on the property, or in 1800 South. New utility laterals will need to be cut into 1800 South to service lot 1. The property will be allowed to continue to drain as it has in the past, but the developer will be required to pay the normal Storm Water Impact Fee.

There are two utilities that currently cross portions of the property that will need to be covered by Public Utility Easements. There is an existing Storm Drain line along a portion of the south property line and the entire west line, and there is a large overhead power line along the south property line, both of which will be covered by 15' wide Public Utility Easements. Those easements are shown on the final plat.

The existing sidewalk and curb and gutter are all in relatively good condition so no overall bond for wholesale replacement will be required, rather any repair work will be covered by the individual bonds required as each of the lots has a building permit issued for a new house.

Staff recommends that the Planning Commission pass a recommendation for Preliminary and Final Approval to the full City Council with the conditions listed below.

1. Payment of all required fees.
2. Provide a current Title Report.
3. All red line corrections be made.

Richard Higginson made a motion that the Planning Commission pass a recommendation for Preliminary and Final approval to the City Council for the Fowler Estates Subdivision located at 167 W 1800 S, with the three conditions outlined by staff. Von Hill seconded the motion. Voting passed 6-0 with Commission members Allen, Badham, Higginson, Hill, Monson, and Spratley voting aye.

**6. Consider final site plan approval and final subdivision approval for mixed use office and residential building located at 1501 S Renaissance Towne Dr, Bruce Broadhead, applicant.**

Bruce Broadhead, owner and Ray Bryson representing Renaissance Towne Center were present. Chad Wilkinson presented the staff report.

The applicant, Bruce Broadhead, requests final site plan and final subdivision plat approval for a new mixed use development located on “Pad A” (Lot 9) of the Renaissance Town Center Development. The site was recently rezoned to MXD-PO (Mixed Use Professional Office) which allows for a mix of residential and commercial uses. The current proposal includes 38 residential units and approximately 5,500 square feet of commercial space located on the street level.

The final subdivision plat has been slightly modified from the previous plan in order to clarify some issues identified at preliminary review. A text amendment scheduled for review concurrent with this application will further clarify the minimum lot standards for the development.

The proposal includes the use of the existing City owned parking garage. The development agreement governing the use of the garage is currently under review by the City Attorney and any needed changes to the agreement will be required prior to issuance of building permit and/or recording of the final plat.

Von Hill made a motion that the Planning Commission pass a recommendation for approval to the City Council for the final site plan approval and final subdivision approval for mixed use office and residential building located at 1501 S Renaissance Towne Dr. with the three conditions outlined by staff. Richard Higginson seconded the motion. Voting passed 6-0 with Commission members Allen, Badham, Higginson, Hill, Monson, and Spratley voting aye.

**7. PUBLIC HEARING – Consider approval of a Zoning Ordinance Text Amendment to clarify the lot standards of the MXD-PO zone, Bountiful City, applicant.**

The MXD- PO zone was adopted in May 2016 with standards regulating development within the zone. The zoning designation currently applies to only one area of the City corresponding to the north portion of the Renaissance Towne Centre Planned Unit Development. During recent development review of a project within the zone, it became apparent that the adopted lot standards created some ambiguity in administering development within the PUD. As written, the standards create a new type of lot that is not currently defined in Code. The Code does not define what a “pad site” is and under what parameters they may be created. The purpose of the text amendment is to clarify the Code and facilitate development of the parcel.

As stipulated by the Bountiful Land Use Ordinance, MXD zoning districts are always adopted in conjunction with a development plan for a specific property. This development plan is a requirement of the zoning ordinance and is considered an integral part of the zoning regulations for the area. In the instance of the MXD-PO zone, the property is also subject to the standards of the Renaissance Towne Centre PUD. After reviewing the original approval of the Renaissance Towne Centre PUD, it appears that defining a minimum lot size is unnecessary. The PUD allows for areas defined as “additional land” to be included in the PUD through the recordation of a plat. As long as lots substantially correspond with the original approval of the PUD, there is not a need to further define lot sizes. Any significant changes to the PUD development plan require Planning Commission and City Council approval of a PUD amendment at which time the new lot configurations can be reviewed and approved.

Staff recommends that the Planning Commission forward a recommendation of approval to the City Council for the proposed amendment to the MXD-PO district standards related to minimum lot standards.

Chairman Monson opened and closed the Public Hearing at 8:20 p.m.

Mike Allen made a motion that the Planning Commission pass a recommendation of approval to the City Council for the proposed amendment to the MXD-PO district standards related to minimum lot standards as written. Von Hill seconded the motion. Voting passed 6-0 with Commission members Allen, Badham, Higginson, Hill, Monson, and Spratley voting aye.

#### **4. Planning Director’s report, review of pending applications and miscellaneous business.**

1. APA Conference – October 6 & 7, 2016.
2. Upcoming agenda items.

Chairman Monson ascertained there were no other items to discuss. The meeting was adjourned at 8:22 p.m.

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Chad Wilkinson, City Planner

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

**APPLICANT:** Michael Brown and William Marsh

**APPLICATION TYPE:** Variance to the required driveway separation standards in order to construct a shared driveway.

**I. DESCRIPTION OF REQUEST:**

The applicants, Michael Brown and William Marsh, request a variance to the required driveway separation standards in order to construct a shared driveway between their properties at 1435 & 1447 N. East Hills Circle.

**II. LAND USE ORDINANCE AUTHORITY:**

Section 14-2-111 authorizes the Planning Commission as the review body for variance requests related to the setback and driveway separation 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, October 4, 2016** 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 Planning Commission finds that the 15 foot setback on the property addressed 1447 N East Hills Circle reduces the amount of available off street parking available to the property and constitutes a hardship.

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

The lots are on a cul-de-sac with limited frontage on a public street making it difficult to construct a second driveway. The property at 1447 N. East Hills Circle also has a reduced setback of 15 feet making it difficult to provide off street parking available to other similar lots in the district.

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

The Commission finds that a variance is needed in order for the property located at 1447 N East Hills Circle to provide adequate off street parking. The reduced setback and location on a cul-de-sac make it difficult to provide off-street parking available to other properties in the district.

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

The Commission finds that the variance will not be contrary to the public interest.

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

The Commission finds that granting the variance will allow the applicants to provide off-street parking and that the proposed spacing of 28 feet is in substantial conformance with the Land Use Ordinance.

## **VI. DECISION AND SUMMARY**

The Planning Commission approved a variance to the minimum driveway separation standards by a vote of 4-2. The approval is contingent on the following conditions:

1. The applicants shall record a cross access agreement allowing for shared use of the driveway.

## **VII. FINDINGS OF FACT APPROVED BY THE Bountiful City Planning Commission this \_\_\_\_\_ day of October, 2016.**

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Sean Monson, Chair  
Bountiful City Planning Commission

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

**APPLICANT:** David and Laurel Lindsay

**APPLICATION TYPE:** A variance to the required 8 foot setback from the side property line for an existing detached garage in order to construct an addition to a dwelling.

**I. DESCRIPTION OF REQUEST:**

The applicants, David and Laurel Lindsay, request a variance to the required 8 foot setback from the side property line for an existing detached garage in order to construct an addition to a dwelling.

**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, October 4, 2016** 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;**

State law indicates that a hardship cannot be self-imposed. In the case of the current request, it is the size of the proposed addition that creates the need for the variance. A smaller addition could be constructed that would not place the garage in the side yard and would not require a variance. If an addition was constructed that maintained the required 5 foot separation from the garage and did not create a situation where the garage was now in a side yard, the garage could be considered existing legal nonconforming and construction could occur without a variance. It is the size of the proposed addition that creates the need for a variance. The size of the addition is a self-imposed condition.

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

There are many detached garages in the neighborhood that do not meet the current setback standards. The predominant difference in this case is that it is the proposed construction of an addition that changes the status of the garage and places an accessory structure that was once in the rear yard into the side yard. This change increases the nonconformity of the garage which is not allowed without a variance to the standards of the Code.

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

A smaller addition could be constructed on the home that would not place the existing garage in the side yard. This would allow for an expansion to the home without increasing the nonconformity of the garage. By definition an expansion of the home that leaves the garage in the rear yard would not increase the nonconformity of the garage.

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

The setback standards of the ordinance implement the goals and policies of the general plan. If changes to the standards of the ordinance are desirable they should be made through the legislative process. Granting of the variance is not consistent with the public interest of orderly consistent development.

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

Setbacks serve the purpose of providing fire separation, preventing overcrowding of development on lots and protecting and enhancing open space on lots. A variance to the setback standards in this case would not be in keeping with the spirit of the land use ordinance.

## **VI. DECISION AND SUMMARY**

The Planning Commission denied the variance to the required 8 foot setback from the side property line for an existing detached garage in order to construct an addition to a dwelling. The vote was 6-0. The Planning Commission also recommended that Planning staff request the City Council to look at potential changes to the Code related to additions to existing residential homes and the definition of side yard.

## **VII. FINDINGS OF FACT APPROVED BY THE Bountiful City Planning Commission this \_\_\_\_\_ day of October, 2016.**

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Sean Monson, Chair  
Bountiful City Planning Commission

# Commission Staff Report

Item #5

**Subject:** Preliminary Subdivision Approval for East Orchard Subdivision  
**Address:** 2340 So. 200 West  
**Author:** City Engineer  
**Department:** Engineering, Planning  
**Date:** August 16, 2016

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## Background

Mr. Gary Wright is requesting preliminary approval for a seven lot subdivision proposed for the 2.3 acres currently occupied by two homes, several barns/sheds and some horse arena ground, located at 2340 South 200 West, across the street from the Bountiful City Cemetery. The area is zoned R-4 and the request is for a subdivision which is consistent with the existing zoning requirements.

## Analysis

Mr. Wright is in the process of purchasing two parcels totaling 2.3 acres of ground just south and east across 200 West from the city cemetery. The proposed subdivision consists of 7 lots proposed to front on a new cul-de-sac constructed between the homes located at 2329 S and 2343 S. 200 West Street. The property that both of these homes are located on is included as part of the subdivision. The new street makes the two existing houses into corner lots where there has been a large yard between the two houses so care has been taken to locate the new street in such a way that the homes have the required 20 ft. minimum side yard required on a corner.

With the current zoning of R-4, the proposed 7 lots fall within the maximum density allowed for the zone and the lots all exceed the 8,000 sq.ft. minimum area required, with sizes ranging from 8,016 sq.ft. to over 14,300 sq.ft. As stated above, the two corner lots also exceed the requirement that corner lots be a minimum of 8,800 sq.ft. All lots, interior, curve and corner also exceed the minimums required for the zone.

All utilities are available in 200 West and are available to be extended into this new cul-de-sac. The existing houses on lots 1 and 7 will remain and obviously are already hooked up to the necessary utilities. The remaining five lots will have new utility services from the new street.

The storm water runoff from this area drains onto 200 West Street and runs north into the 200 West storm drain system at 2200 South. This system is currently at capacity so onsite detention is required. The developer is proposing to provide onsite detention in underground detention chambers located between lot 6 and lot 7. A maintenance agreement with the property owner is required for the long term maintenance of the chambers.

The only item in this proposed development is the shape of lot 4. Although it is the largest lot, and has the necessary buildable area, it is shaped in such a way that could place a new home on the lot rather close to the existing homes in the Franklin Farms subdivision to the east. As such, the north line of the lot (adjacent to the LDS church property) will be considered as side yard, with a required 8 ft. side yard, and the property line to the east will be considered the rear yard with a required 20 ft. open area. That will provide for maximum separation between the house built on lot 4 and the existing homes on lots 106 and 107 of Franklin Farms subdivision. The developer is aware of this requirement.

### **Department Review**

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

### **Recommendation**

We recommend that the Planning Commission pass a recommendation for Preliminary Approval to the full City Council with the conditions listed below.

1. Payment of all required fees.
2. Provide a current Title Report.
3. Finalize the design of the underground storm water detention system along with a signed maintenance agreement.

### **Significant Impacts**

This places seven homes where there has historically been two, and creates a new cul-de-sac. All of the negative impacts are minor.

### **Attachments**

Aerial photo showing the area to be subdivided  
A copy of the East Orchard Subdivision Preliminary Plat.

Aerial Photo of the proposed East Orchard Subdivision



