

COTTONWOOD HEIGHTS CITY

APPEALS HEARING OFFICER MEETING AGENDA

April 13th, 2023



Notice is hereby given that the **Cottonwood Heights Appeals Hearing Officer** will convene on **Thursday, April 13th**, at **Cottonwood Heights City Hall** (2277 E. Bengal Blvd., Cottonwood Heights, UT 84121) for a **public meeting**.

The meeting will begin at **5:00 p.m.** in the City Council Workroom.

The public can also hear audio of the open portions of the meeting by connecting to the live broadcast at <http://mixlr.com/chmeetings>.

5:00 p.m. Public Meeting

1.0 Welcome and Acknowledgements

- 1.1 Ex parte communications or conflicts of interest to disclose

2.0 Business Items

2.1 Project AHO-23-004

Consideration and potential action on a request from Caleb White for an expansion of a non-conforming structure (garage reconstruction) located at 7670 S. Steffensen Dr.

2.2 Project AHO-23-003

Consideration and potential action on a request from Kimley-Horn for an expansion of a non-conforming use (two additional parking lot light poles) at 7025 S. Park Centre Dr.

2.3 Project AHO-22-003

Consideration and potential action on a request from Kenny Hiram for multiple zoning variances to construct a home located at 7950 S. Top of the World Dr.

3.0 Consent Agenda

- 3.1 Approval of Appeals Hearing Officer Minutes from April 13th, 2023

(The Appeals Hearing Officer will approve the minutes of the April 13th, 2023 meeting after the following process is met. The City Recorder will prepare the minutes and email them to the Hearing Officer. The Hearing Officer will have five days to review the minutes and provide any changes to the Recorder. If, after five days there are no changes, the minutes will stand approved. If there are changes, the process will be followed until the changes are made and the hearing officer is in agreement, at which time the minutes shall be deemed approved.)

4.0 Adjourn

Meeting Procedures

Items will generally be considered in the following order:

1. Staff Presentation
2. Applicant Presentation (If applicable)
3. Appeals Hearing Officer Deliberation
4. Appeals Hearing Officer Decision

Appeals Hearing Officer applications may be tabled if: 1) Additional information is needed to act on the item; OR 2) The Appeals Hearing Officer feels there are unresolved issues that may need further attention before the Officer is ready to make a decision. No agenda item will begin after 9:00 p.m. without approval from the Appeals Hearing Officer. The Appeals Hearing Officer may carry over agenda items, scheduled late in the evening and not heard, to the next regularly scheduled meeting.

Notice of Compliance with the Americans with Disabilities Act (ADA)

In compliance with the Americans with Disabilities Act, individuals needing special accommodations or assistance during this meeting shall notify the City Recorder at (801) 944-7021 at least 24 hours prior to the meeting. TDD number is (801) 270-2425 or call Relay Utah at #711.

Confirmation of Public Notice

On Thursday, April 6th, 2023, a copy of the foregoing notice was posted in conspicuous view in the front foyer of the Cottonwood Heights City Offices. The agenda was also posted on the City's website at www.cottonwoodheights.utah.gov and the Utah public notice website at <http://pmn.utah.gov>.

DATED THIS 6TH DAY OF APRIL, 2023

Attest: Paula Melgar, City Recorder



APPEALS HEARING OFFICER STAFF REPORT

Expansion of a Non-Conforming Structure

Meeting Date: April 13, 2023

Staff Contact: Mike Johnson, CED Director

Summary

Applicant:

Caleb White

Subject Property:

7670 S. Steffensen Drive

Action Requested:

Expansion of a Non-Conforming Structure

Recommendation:

Approve

Project #:

AHO-23-004



Context

Property Owner:

Caleb & Lindsay White

Acres:

0.28

Parcel #:

22-26-351-013



Street View, Looking North

Zoning

Subject & Adjacent Properties:

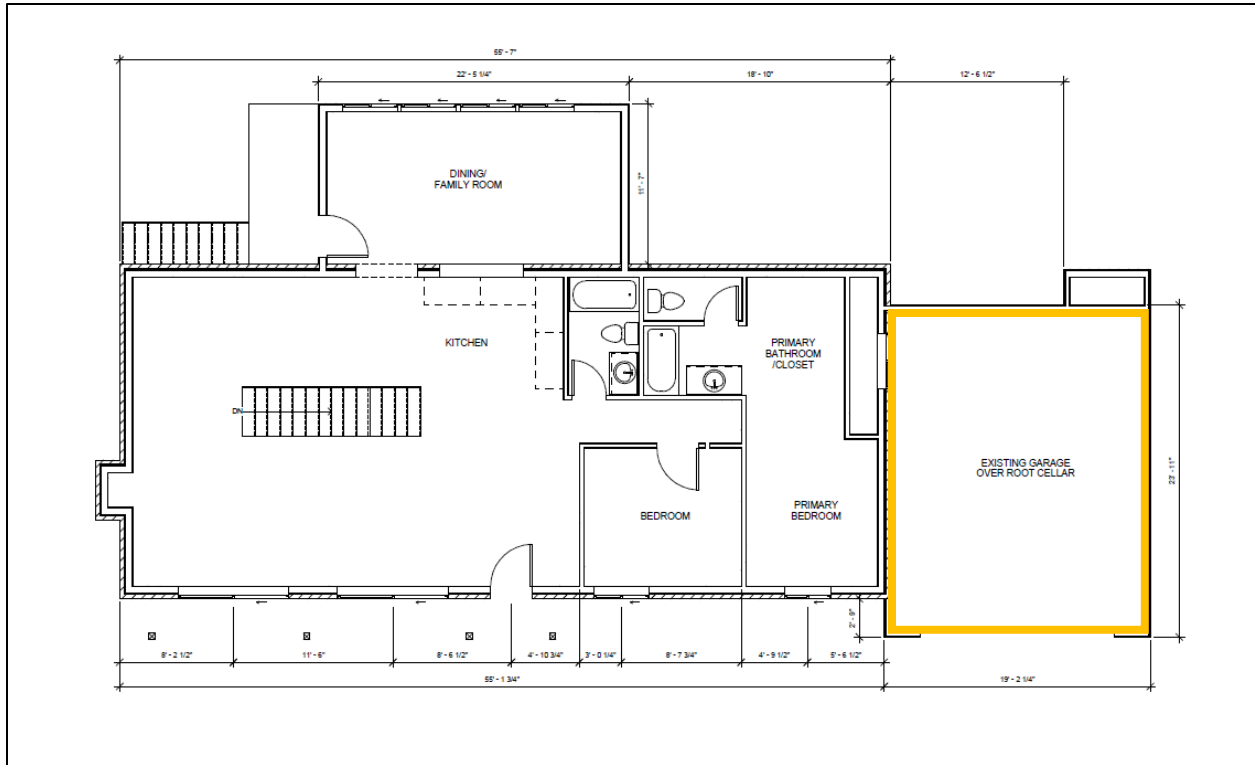
- R-1-8 (Residential Single-Family)



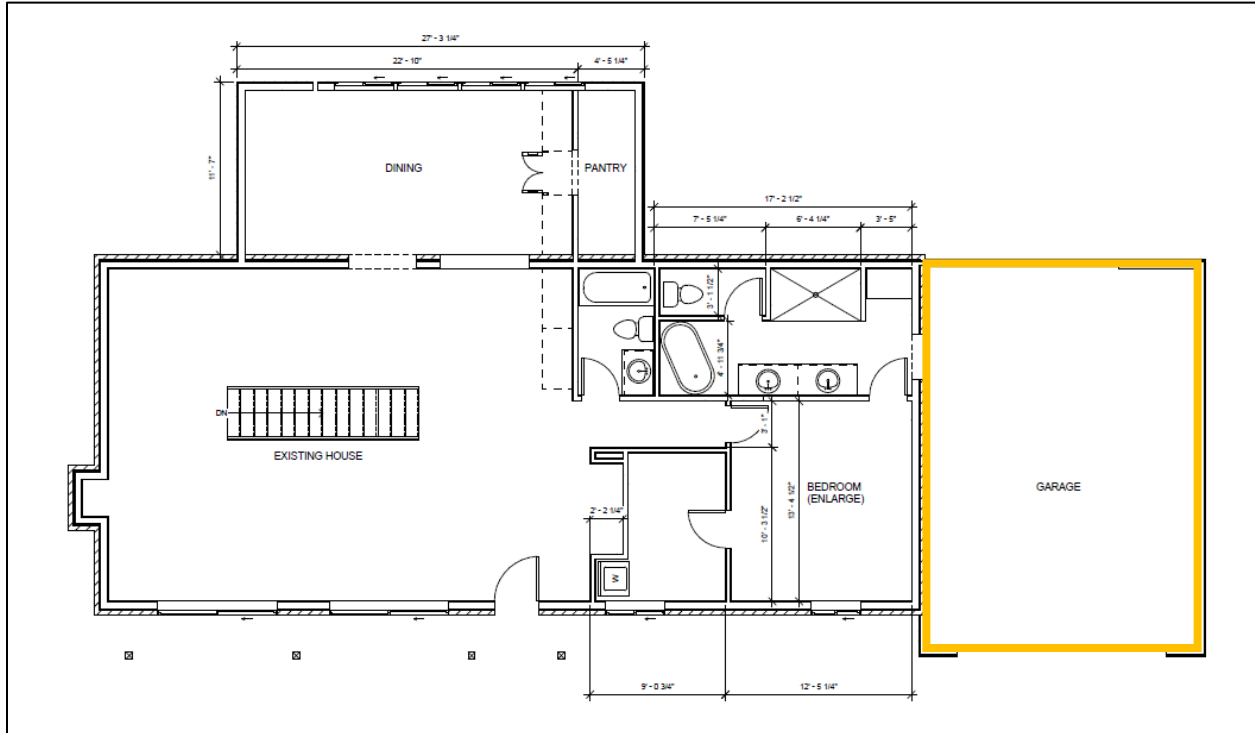
Request

The applicant is requesting approval to reconstruct the existing garage on the property due to structural issues. The current garage location does not comply with minimum city setbacks. The existing minimum side setback is approximately three feet (eight feet minimum is required by code), and the existing front setback is approximately 23 feet (25 feet is required). The proposed reconstruction does not impact the setbacks of the garage but expands the height of the garage to match the height of the existing home (approximately 21 feet).

Additional minor expansion and remodel work is proposed, which is subject to building permit review and issuance but not relevant to the request for expansion of a non-conforming structure.



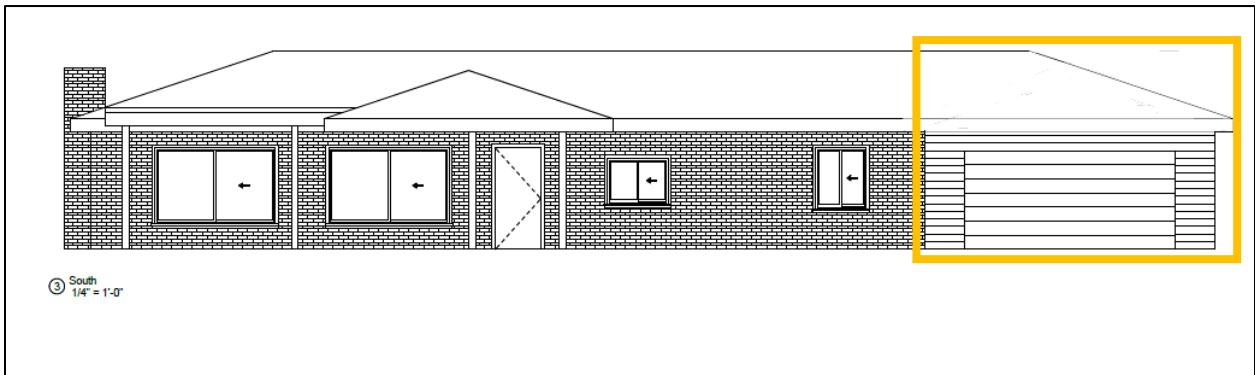
Existing Building Footprint (Garage Highlighted)



Proposed Building Footprint (Garage Highlighted)



Existing Front Elevation (Garage Highlighted)

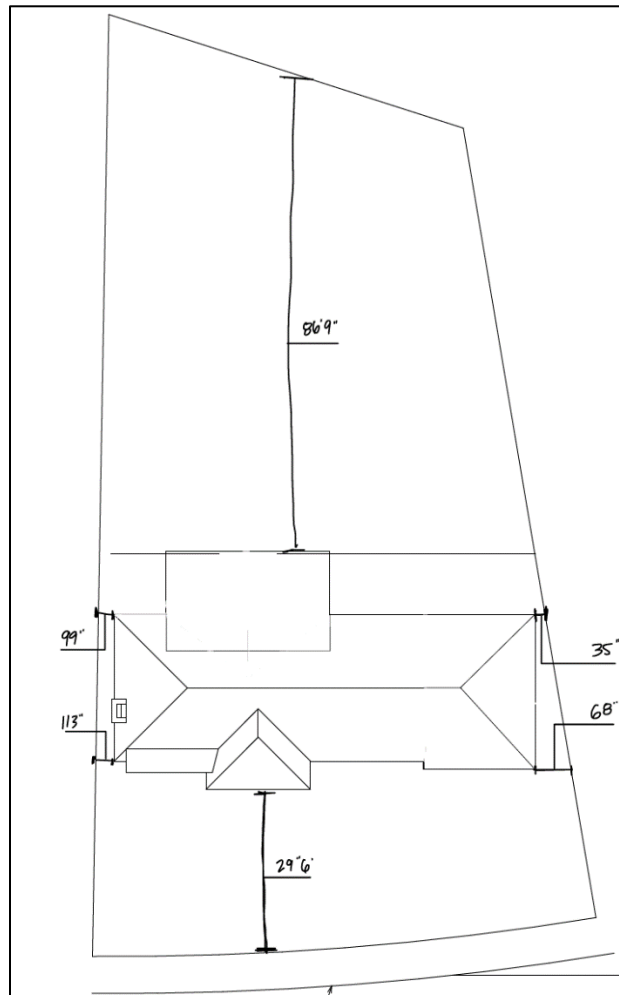


Proposed Front Elevation (Garage Highlighted)

Development Standards

Setbacks

- Front Setback (North Property Line)
 - **Existing:** Approximately 23'
 - **Required:** 25'
 - **Proposed:** No change
- Side Setbacks (East - side of home with proposed garage reconstruction)
 - **Existing:** 35" (approximately three feet) at its closest point
 - **Required:** Combined total of 20', with neither side less than 8'
 - **Proposed:** No change
- Rear Setback (North Property Line)
 - **Existing:** 86'9"
 - **Required:** 20'
 - **Proposed:** No Change



Height

In accordance with city height measurement standards, the existing height of the home is approximately 21' from existing grade (a maximum of 35' is permitted). Structure height is measured by taking the ground elevation at the four corners of the structure. The reconstruction of the garage includes constructing a roof over the garage portion that matches the roof of the rest of the home. Currently, the garage has a flat roof and is several feet shorter than the rest of the home.

While the total structure height after the addition will remain unchanged, the garage reconstruction will see the garage portion of the home expanded vertically and changes the vertical massing of that portion of the home through the construction of a new pitched roof that matches the roof line of the rest of the home (See *Proposed Elevation* drawing on page four).

Lot Coverage

Lot coverage of the structure remains unchanged and is well below the 50% lot coverage maximum permitted by ordinance.

Analysis

Staff finds that the proposed residential addition introduces no significant impact, given the following:

- The proposed garage reconstruction is proposed to address structural safety issues in the existing structure and does not impact the setbacks of the home. The only expansion occurring is in the vertical measurement of the garage due to a new proposed roof, as well as a slight addition to the rear of the garage in a location that does not impact any non-conforming setbacks.
- All other development standards (height, lot coverage, etc.) are compliant with City Code, and will be verified as such during the building permit process.

Appeals Hearing Officer Authority

Chapter 19.88 of the Cottonwood Heights Municipal Code allows for additions to non-conforming structures upon approval from the city's Appeals Hearing Officer:

19.88.070 Additions, enlargements, moving and reconstruction of building.

B. A building occupied by a nonconforming use or a building noncomplying as to height, area, or yard regulations may be added to or enlarged or moved to a new location on the lot or reconstructed at a new location on the lot upon a permit authorized by the Appeals Hearing Officer provided that the Appeals Hearing Officer, after the hearing, shall find:

- 1. The addition to, enlargement of, moving of, or reconstruction of the noncomplying building at a new location on the lot will be in harmony with one or more of the purposes stated in section 19.02.020, and shall be in keeping with the intent of this title;*

2. *That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or noncomplying building.*

19.02.020 Purpose of provisions.

This title is designed and enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the city, including, among other things, the lessening of congestion in the streets or roads, securing safety from fire and other dangers, providing adequate light and air, classification of land uses and distribution of land development and utilization, protection of the tax base, and securing economy in governmental expenditures, fostering the city's industries, and the protection of both urban and non-urban development.

Recommendation & Findings

Staff recommends **APPROVAL** of the request for an expansion of a non-conforming structure, based on the following findings:

1. The proposal will not negatively affect the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the city because the use is the same as currently exists;
2. The proposal will not create any additional congestion in the streets or roads;
3. The proposal will not create a fire safety issue;
4. The proposal will not affect air flow or block natural light from adjoining properties by conforming with all height regulations;
5. The proposal will have no apparent negative effect on the city's tax base;
6. The proposal will not place any type of unreasonable burden upon neighboring properties;
7. The proposal is in keeping with the intent of the Cottonwood Heights Zoning Ordinance.

MODEL MOTIONS:

Approval

I move to approve project AHO-23-004, with the conditions and based on the findings listed in the staff report dated April 13, 2023...

- Add any additional findings for approval...
- Add any additional conditions for approval...

Denial

I move to deny project AHO-23-004, based on the following findings...

- List findings for denial...

Attachments

1. Applicant's Narrative

These plans include all of our planned changes to the house, and if my previous meeting with the city was understood correctly, only the garage is required as part of the hearing - the roof adjustments to the back addition meet all zoning restrictions and setbacks, and everything else is interior work.

To give you an idea on what we want to do and why we need to do it, the garage as it stands now has major structural issues. There's no foundation underneath the garage at all, and we believe that it's sinking into the ground. The difference between the garage floor height and the driveway has increased a few inches this winter, and the floor is cracking where the car's tires drop onto the garage floor. Underneath the garage is an old potato cellar, and most of the area under the garage is dug out already - it's on a hill, with a walkout basement, so there's lots of free-floating space under the garage floor.

We want to tear down the current structure, have a proper foundation poured that will actually support the structure, and add a storage room underneath the garage floor. The garage is going to stay in the exact same footprint that it's currently occupying, but we want the roof line to match up with the house, as seen in the architecture pictures, which from what I understand is the reason we need the hearing done. The increased height would accommodate a slightly taller vehicle and include storage space above the garage, as well as add to the curb appeal, as the current structure looks very odd. Besides the roofline height increase, everything else will maintain the same footprint, but the structure will actually hold weight and we won't be scared of its impending collapse.

The roof heightening and inside renovations are all for a better more functional setup for our situation, and shouldn't run into any zoning issues.

I'm new to this process, and don't know what all requires permitting, so if those other plans require it and can be completed in this avenue, please let me know so we can get things moving! Otherwise, I hope this clears up the plans, and I look forward to discussing further and getting the plan going!

Thank you for your time,

Caleb White





APPEALS HEARING OFFICER STAFF REPORT

Expansion of a Non-Conforming Use

Meeting Date: April 13, 2023

Staff Contact: Ian Harris, Associate Planner & Sustainability Analyst

Summary

Applicant:

Joanna Graham, Kimley-Horn

Subject Property:

7025 S. Park Centre Dr.

Action Requested:

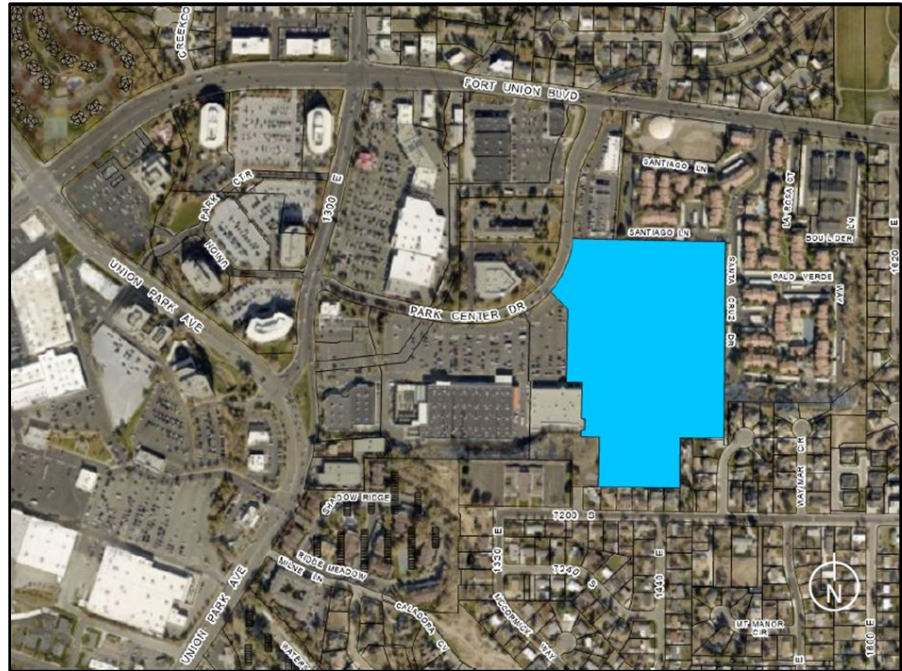
Expansion of a Non-Conforming Use

Recommendation:

Approve with Conditions

Project #:

AHO-23-003



Vicinity Map

Context

Property Owner:

Mike Liljenquist, Forels Investment Co.

Acres:

17.26

Parcel #:

22-28-101-032

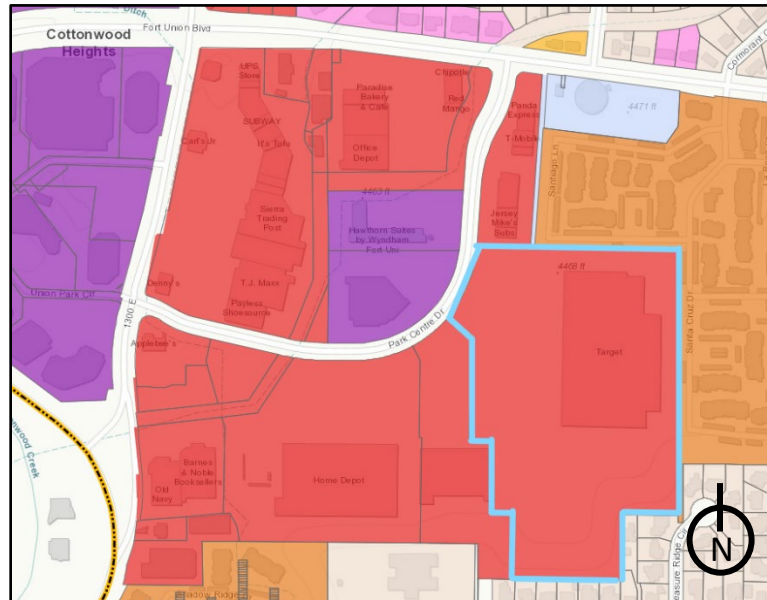


Street View, Looking East

Zoning

Subject & Adjacent Properties:

- CR (Regional Commercial)
- R-1-8 (Single-family Residential)
- ORD (Office)
- RM (Multifamily Residential)



Request

The applicant is seeking to expand its drive-up shopping operations and in accordance is requesting approval of two new light poles to assist staff and customers in keeping the area well lit.

The applicant intends for the new lighting to match the Kelvin rating of existing lighting, which is 4,000K. City ordinance 19.77.050 states no lamps shall exceed 3,500K.

With the new lighting installed, the amount of lumens will be 77,145 per acre.

*Important note: **Lumens** measure brightness, or quantity of visible light emitted. **Kelvins** measure color temperature, or how warm/cool a light appears.*



Development Standards

§19.77.050 Lighting Standards, Other Zones

- C. Illumination.
 - **Required:** Not to exceed 100,000 lumens per acre
 - **Proposal:** 77,145 lumens per acre (987,461 total lumens per 12.8 acres)
- D. Spectrum. No lamp shall exceed 3,500 kelvin.
 - **Existing lighting:** 4,000K
 - **Required:** 3,500K
 - **Proposal:** The applicant proposes new lighting to be 4,000K, keeping with existing lighting temperature on the site.

Analysis

Staff finds that the proposed expansion of lighting introduces no significant impact, given the following:

- When current lighting was installed, there was no requirement to keep lamps in the CR zone at or below a 3,500K rating. Since then, the city has adopted ordinances restricting lighting to contain light pollution and harsh lighting within the city to a minimum. Existing lighting at the parking lot has a Kelvin rating of 4,000, which exceeds the city's requirements by 500K.
- After additional lighting is installed, total lumens will not exceed the limit of 100,000 per acre as required by City Code.
- Apart from proposed Kelvin levels, the proposal is compliant with City Code, and will be verified as such during the building permit process.

Appeals Hearing Officer Authority

Chapter 19.88 of the Cottonwood Heights Municipal Code allows for additions to non-conforming structures upon approval from the city's Appeals Hearing Officer:

19.88.070 Additions, enlargements, moving and reconstruction of building.

B. A building occupied by a nonconforming use or a building noncomplying as to height, area, or yard regulations may be added to or enlarged or moved to a new location on the lot or reconstructed at a new location on the lot upon a permit authorized by the Appeals Hearing Officer provided that the Appeals Hearing Officer, after the hearing, shall find:

- 1. The addition to, enlargement of, moving of, or reconstruction of the noncomplying building at a new location on the lot will be in harmony with one or more of the purposes stated in section 19.02.020, and shall be in keeping with the intent of this title;*
- 2. That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or noncomplying building.*

19.02.020 Purpose of provisions.

This title is designed and enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the city, including, among other things, the lessening of congestion in the streets or roads, securing safety from fire and other dangers, providing adequate light and air, classification of land uses and distribution of land development and utilization, protection of the tax base, and securing economy in governmental expenditures, fostering the city's industries, and the protection of both urban and non-urban development.

Recommendation & Findings

Staff recommends **APPROVAL WITH CONDITIONS** of the request for an expansion of a non-conforming structure, based on the following findings:

1. The proposal will not negatively affect the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the city because the use is the same as currently exists;
2. The proposal will not create any additional congestion in the streets or roads;
3. The proposal will not create a fire safety issue;
4. The proposal will not affect air flow or block natural light from adjoining properties by conforming with all height regulations;
5. The proposal will have no apparent negative effect on the city's tax base;
6. The proposal will not place any type of unreasonable burden upon neighboring properties;
7. The proposal is in keeping with the intent of the Cottonwood Heights Zoning Ordinance.

RECOMMENDED CONDITIONS OF APPROVAL:

1. The approval only pertains to the two new light poles, nothing more or in addition;
2. No lamp at the property is to exceed 4,000 K.
3. With the addition of this lighting at the property, the total lumens must not exceed 100,000 per acre.
4. All other standards listed in §19.77.050 shall be followed.

MODEL MOTIONS:

Approval

I move to approve project AHO-23-003, with the conditions and based on the findings listed in the staff report dated April 13, 2023...

- Add any additional findings for approval...
- Add any additional conditions for approval...

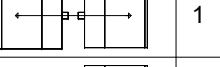
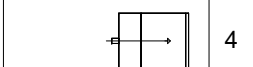
Denial

I move to deny project AHO-23-003, based on the following findings...

- List findings for denial...

Attachments

1. Proposed Lighting Plans
2. Project Narrative

Luminaire Schedule									
Symbol	Qty	Label	Lum. Watts	Lum. Lumens	LLF	BUG Rating	IES Class	Filename	Description
	1	SWQ-09	374	46201	0.900	B5-U0-G4	Type VS	GLEON-AF-09-LED-E1-SWQ-800.ies	GLEON-AF-09-LED-480-SWQ-DP-800-DIM10-PER7N-MS/DC-L40W
	3	SWQ-06	249	30992	0.900	B5-U0-G4	Type VS	GLEON-AF-06-LED-E1-SWQ-800.ies	GLEON-AF-06-LED-480-SWQ-DP-800-DIM10-PER7N-MS/DC-L40W
	1	SWQ-06 (2)	249	30992	0.900	B5-U0-G4	Type VS	GLEON-AF-06-LED-E1-SWQ-800.ies	GLEON-AF-06-LED-480-SWQ-DP-800-DIM10-PER7N-MS/DC-L40W
	10	SWQ-08	334	41529	0.900	B5-U0-G4	Type VS	GLEON-AF-08-LED-E1-SWQ-800.ies	GLEON-AF-08-LED-480-SWQ-DP-800-DIM10-PER7N-MS/DC-L40W
	5	SWQ-10	419	51290	0.900	B5-U0-G5	Type VS	GLEON-AF-10-LED-E1-SWQ-800.ies	GLEON-AF-10-LED-480-SWQ-DP-800-DIM10-PER7N-MS/DC-L40W
	2	T2R-05	210	25616	0.900	B3-U0-G3	Type II	GLEON-AF-05-LED-E1-T2R-800.ies	GLEON-AF-05-LED-480-T2R-DP-800-DIM10-PER7N-MS/DC-L40W
	2	T2R-03 (2)	124	16932	0.900	B2-U0-G2	Type II	GLEON-SA3B-735-U-T2R.ies	GLEON-SA3B-735-U-T2R.ies
	4	T4FT-03	124	15109	0.900	B2-U0-G3	Type IV	GLEON-AF-03-LED-E1-T4FT-800.ies	GLEON-AF-03-LED-480-T4FT-DP-800-DIM10-PER7N-MS/DC-L40W

Calculation Summary						
Label	CalcType	Avg	Max	Min	Avg/Min	Max/Min
Store Entrance Drive	Illuminance	3.55	6.6	1.8	1.97	3.67
Drive Up Lanes	Illuminance	6.06	9.0	4.1	1.48	2.20
EDGE OF PARKING	Illuminance	1.38	2.2	0.6	2.30	3.67
ENTRY DRIVE	Illuminance	2.03	2.9	1.2	1.69	2.42
MAIN PARKING (LEFT)	Illuminance	2.00	6.7	0.2	10.00	33.50
MAIN PARKING (RIGHT)	Illuminance	2.27	9.0	1.1	2.06	8.18



Total acres = 742171 sf- 183872 sf =
558,298 sf/43560 = 12.8 acres

Total lumens = 987,461/12.8 acres =
77,145 lumens per acre

Total Watts = 8466

NOTES:

RED CALC POINTS = BUILDING ENTRANCE DRIVE

BLUE = MAIN PARKING AREAS

GREEN = EDGES OF PARKING

ORANGE = ENTRY DRIVES

□ = WALL MOUNT LOCATIONS

○ = POLE LOCATIONS BY OTHERS

● = OCC SENSOR MASKING (RED IS AREA TO MASK)

T1751 - DESIGN LEVEL 1
SALT LAKE CITY, UT
Pole Color & Shape Per Survey - BLACK / DARK BRONZE / ROUND
Fixture Voltage Per Survey - 480V

Letter of Intent

To: City of Cottonwood Heights

From: Kimley-Horn

Date: March 6, 2023

Subject: Target Store T1751 Drive-Up Expansion

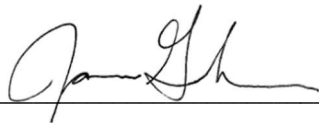
PROJECT DESCRIPTION

On behalf of Target Corporation, Kimley-Horn is assisting with the processing of all jurisdictional approvals necessary for the implementation of expanded site Drive-Up service to the store located at 7025 S Park Centre Dr. Target is expanding its Drive-Up Services which will include two new light poles to assist staff and keeping the area well lit.

We are requesting a non-conforming use for these light poles Kelvin rating. The current lighting ordinance 19.77.050.D states no lamps shall exceed 3,500 Kelvin. The existing 26 pole mounted light fixtures on site are 4,000 Kelvin. The addition of two 3,500 Kelvin lights on our lot will lead to a mismatch color in a localized spot which will negatively impact the aesthetic of the property.

We are proposing two non-conforming light fixtures at 4,000 Kelvin. Per ordinance 19.02.020 the addition on these light poles will provide greater safety for the drive-up staff during service and provide adequate lighting. Per ordinance 19.88.070.B.2, the proposed addition will not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use. The lighting at the property line will not be impacted by the two additional light fixtures.

SIGNATURE: _____



Joanna Graham
Kimley-Horn



APPEALS HEARING OFFICER STAFF REPORT

Hillam Variance – 7950 S. Top of the World Dr.

Meeting Date: April 13, 2023

Staff Contact: Samantha DeSeelhorst, Senior Planner

Summary

Action Requested:

Five Variance Requests

Applicant:

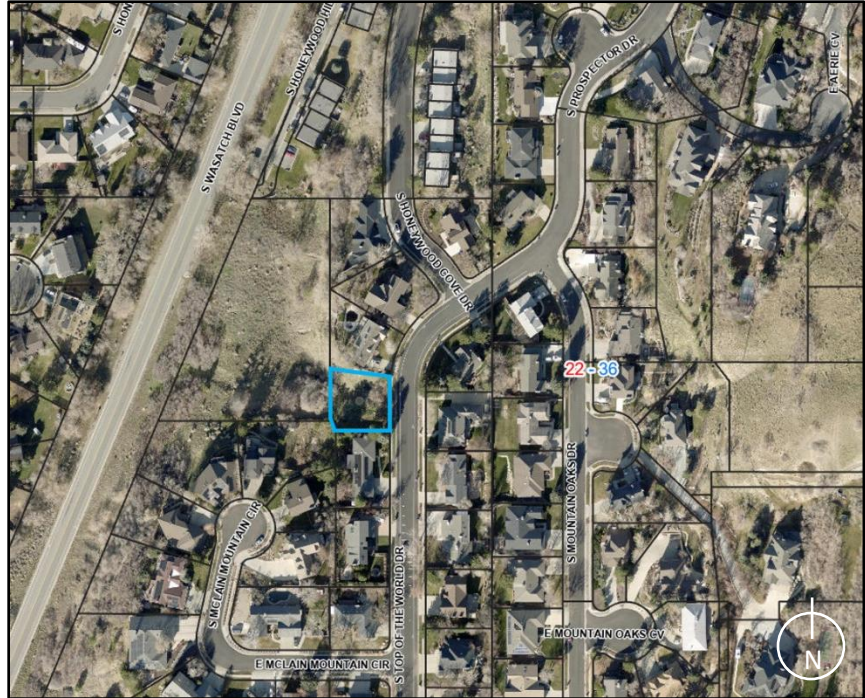
Kenny Hillam

Recommendation:

Partial Approval &
Partial Denial (See Page
13)

Project #:

AHO-22-003



Subject Property Vicinity Map

Context

Subject Property:

7950 S. Top of the World Dr.

Property Owner:

Hillam Homes, Inc.

Acres:

0.22

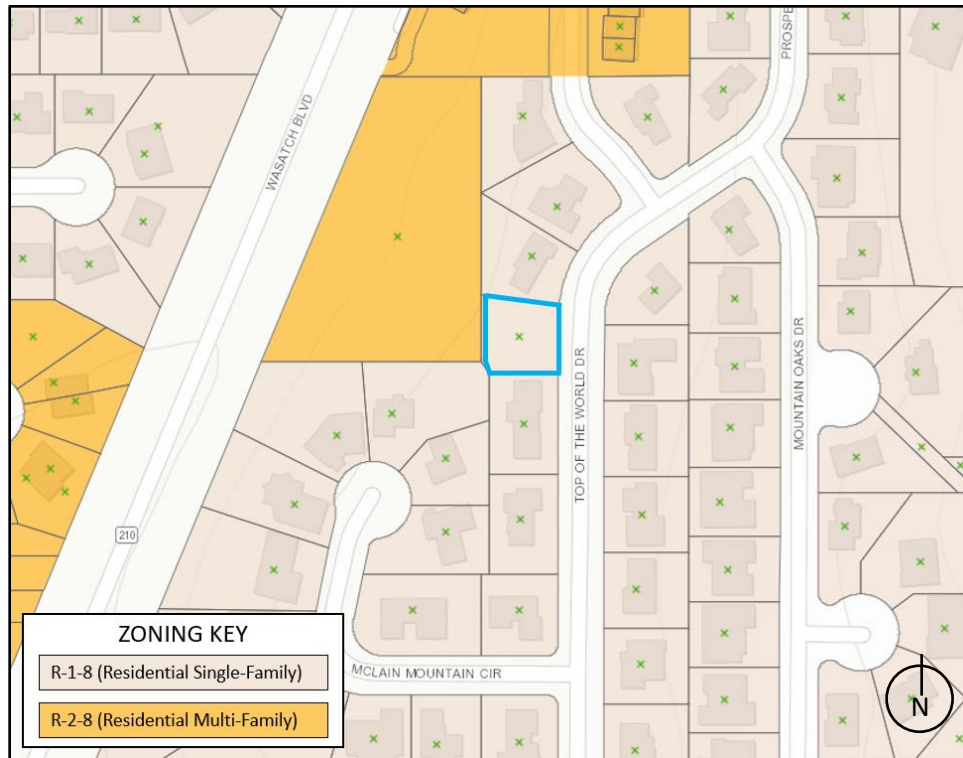
Parcel #:

22-36-105-020-0000



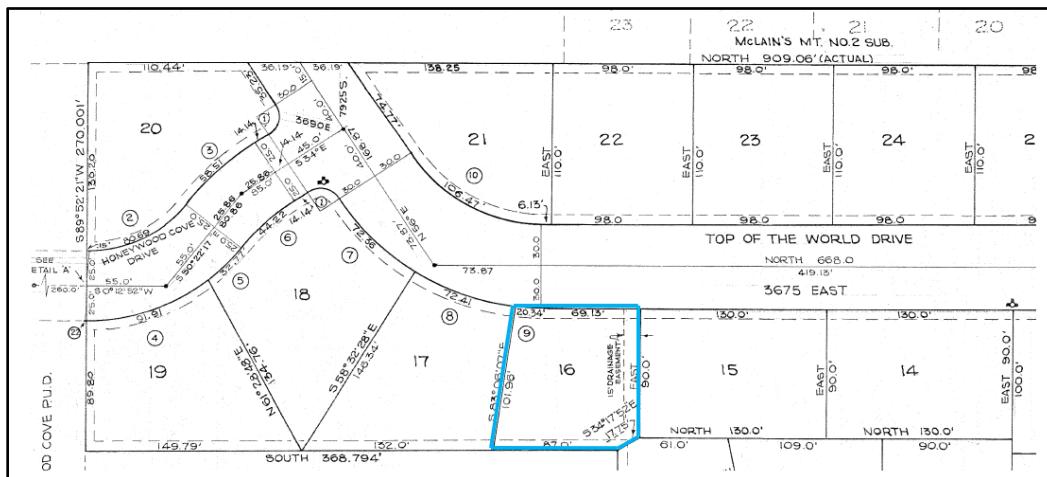
Subject Property Street View - Looking Northwest

Zoning



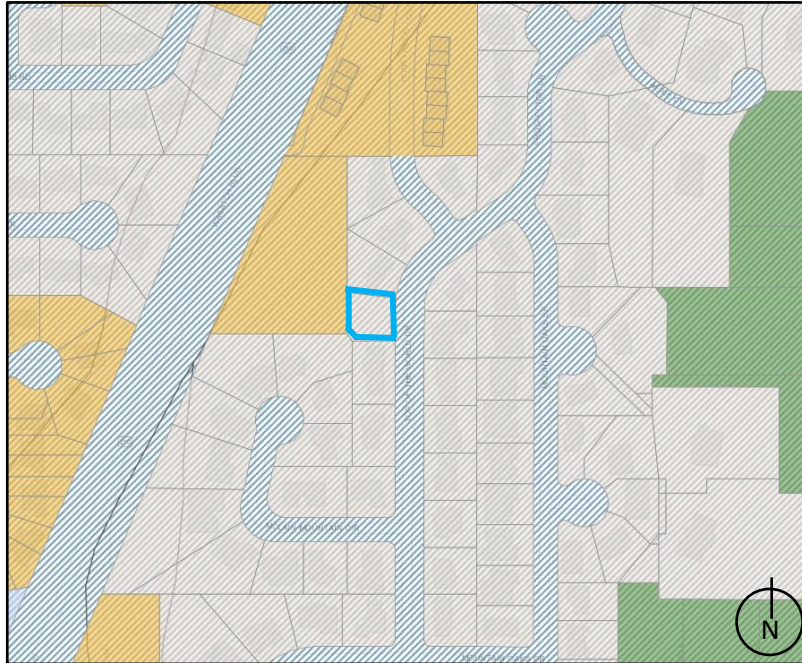
Background

As the property owner and applicant of this project, Mr. Hillam desires to construct a single-family residence on vacant property at 7950 S. Top of the World Drive. This property is Lot 16 of the Persimmon Tree subdivision, which was platted in February 1979. 26 of the 27 lots within this subdivision are built on, all having been originally constructed before the city incorporated (ranging from 1980 – 2003). There is no record of the subject property ever having been built on.



Excerpt from the Persimmon Tree Subdivision Plat

The subject property falls within the city's Sensitive Lands Overlay Zone, and is thus subject to the Sensitive Lands Evaluation and Development Standards (SLEDS) requirements outlined in 19.72 of Cottonwood Heights City Code. More specifically, the subject property is located within the fault rupture study and slope stability hazard areas of the Sensitive Lands Overlay Zone.



The subject property is within the Sensitive Lands Overlay Zone (indicated by the grey diagonal striping).

Request

To construct the proposed single-family home, the applicant has requested variances from five standards found within Cottonwood Heights City Code, as outlined below.

1. **Buildable Area Standards (19.72.040.B.1)**
 - Code Requirement: 3500 sq. ft. building pad
 - Variance Request: 3200 sq. ft. building pad
2. **Impervious Surface Coverage Standards (19.72.040.D)**
 - Code Requirement: Maximum 30% impervious surface coverage
 - Variance Request: Approximately 39% impervious surface coverage
3. **Retaining Wall Standards (19.72.040.A)**
 - Code Requirement: Development, including retaining walls, is not allowed on slopes measuring 30% or more
 - Variance Request: 10 foot retaining wall atop a slope measuring or exceeding 30%
4. **Front Setback Standards (19.26.060.A.1)**
 - Code Requirement: 25' front yard setback
 - Variance Request: 20' front yard setback
5. **Sensitive Lands Evaluation and Development Standards (19.72.020.A.1)**

- Code Requirement: Sensitive Lands Evaluation and Development Standards apply to properties within the Sensitive Lands Overlay Zone
- Variance Request: Remove all Sensitive Lands Evaluation and Development Standards requirements from applying to the development of this property

Describing the project's rationale, the applicant states, *"By building a home on the property located at 7950 S Top of the World, we can add to the improvement of the community and this subdivision. We will help protect the area around and below the property from dirt sliding down to the property below, avoid excess snow melt & storm water runoff which could cause erosion. In addition, building a home will improve the subdivision by changing a lot that is an eyesore, to a place that all the neighbors and passersby can look at and enjoy."*

Variance Regulations

In Cottonwood Heights, variances are regulated by provisions of both city and state code, excerpts of which are outlined below.

City Code

19.92.30 Variances

C.1 The appeal hearing officer may authorize in specific cases variance from the terms of this title only if:

- a. 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;*
- b. There are special circumstances attached to the property that do not generally apply to other properties in the same district;*
- c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;*
- d. The variance will not substantially affect the general plan and will not be contrary to the public interest; and*
- e. The spirit of the zoning ordinance is observed and substantial justice is done.*

C.2 In determining whether enforcement of the zoning ordinance would cause unreasonable hardship under Subsection C(1)(a) of this section, the appeals hearing officer may not find an unreasonable hardship unless the alleged hardship:

- a. Is located on or associated with the property for which the variance is sought, and*
- b. Comes from circumstances particular to the property, not from conditions which are general to the neighborhood.*

C.3 In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under Subsection C(1)(a) of this section, the appeals hearing officer may not find an unreasonable hardship if the hardship is self-imposed or economic.

C.4 In determining whether or not there are special circumstances attached to the property under Subsection C(1)(b) of this section, the appeals hearing officer may find that special circumstances exist only if special circumstances:

- a. Relate to the hardship complained of; and*
- b. Deprive the property of the privileges granted to other properties in the same district.*

D. The applicant shall bear the burden of proving that all the conditions justifying a variance have been met.

E. Variances run with the land.

F. The appeals hearing officer shall not grant a variance that:

- 1. Is intended as a temporary measure only;*
- 2. Is greater than the minimum variation necessary to relieve the unnecessary hardship demonstrated by the applicant; or*
- 3. Authorizes uses not allowed by law (i.e., a “use variance”).*

G. In granting a variance, the appeals hearing officer may impose additional requirements on the applicant that will:

- 1. Mitigate any harmful effects of the variance; or*
- 2. Serve the purpose of the standard or requirement that is waived or modified.*

H. A variance less than or different than that requested may be authorized when the record supports the applicant’s right to some relief but not to the relief requested.

State Code

10-9a-702 Variances

1. Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.

2. a. The appeal authority may grant a variance only if:

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

- iii. *granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;*
- iv. *the variance will not substantially affect the general plan and will not be contrary to the public interest; and*
- v. *the spirit of the land use ordinance is observed and substantial justice done.*

2.b.

- i. *In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:*
 - A. *is located on or associated with the property for which the variance is sought; and*
 - B. *comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.*
 - ii. *In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.*
 - c. *In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:*
 - i. *relate to the hardship complained of; and*
 - ii. *deprive the property of privileges granted to other properties in the same zone.*
3. *The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.*
4. *Variances run with the land.*
5. *The appeal authority may not grant a use variance.*
6. *In granting a variance, the appeal authority may impose additional requirements on the applicant that will:*
- a. *mitigate any harmful effects of the variance; or*
 - b. *serve the purpose of the standard or requirement that is waived or modified.*

Staff Analysis

Utilizing the criteria outlined in city and state code, staff has provided the following analysis and recommendation for each of the five variance requests.

1. Buildable Area Standards

Code Requirement: *“Every lot shall have at least 3,500 square feet of buildable area, consisting of the area of the lot where the slope is 30% or less, which is completely contiguous and which has a minimum dimension of 50 feet.” (19.72.040.B.1 of City Code)*

Variance Request: Applicant requests a 3,200 sq. ft. building pad.

Applicant Responses to Variance Criteria:

- **How would literal enforcement of the zoning ordinance cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance?**
 - *“This zoning ordinance was passed after this subdivision and this lot were developed. Lots in 1979 usually did not meet this requirement. We would not be able to build a home on the lot without this variance being approved.”*
- **What are the special circumstances attached to the property that do not generally apply to other properties in the same district?**
 - *“Lot 16 has 30% man made slopes on the lot. The developer did not grade the lots to comply with a 3500 sq. ft. building envelope because it was not required at the time.”*
- **How is granting this variance essential to the enjoyment of a substantial property right possessed by other property in the same district?**
 - *“Granting the variance would allow us to build a home on our lot like the other homes in the district.”*
- **How will this variance not substantially affect the general plan and will not be contrary to the public interest?**
 - *“Approving the variance would definitely improve the looks of the subdivision and help with completing the general plan. The general plan is to have a home built on this lot that would add beauty to the subdivision. That is what we are trying to accomplish.”*
- **How will the spirit of the zoning ordinance be observed, and substantial justice be done?**
 - *“Approving the variance would tie the subject property into conforming with the two adjoining properties as if the slopes had not been caused by indiscriminate dumping of dirt over the past 43 years. We would be able to build a home on this lot as was master planned back in 1979.”*

The applicant states that requiring a building pad area of 3,500 sq. ft. on this property would create an unreasonable hardship by preventing them from constructing a single-family home on it. They also categorize the lack of a 3,500 sq. ft. buildable area pad as a unique criterion of this property, given the history of this lot having been platted by a developer during an era that did not enforce this regulation.

In current procedure, a lot's grading and buildable area pad is assessed during the plat process, meaning that property being subdivided under current regulations would be required to provide this 3,500 sq. ft. pad on each lot prior to plat recordation. Staff finds that the history of this lot as having been platted prior to city incorporation, and thus having been platted without this buildable area, is a unique component of the property, and considers the proposed deviation to be a reasonable solution to avoid impacting sensitive steep slopes. Additionally, staff this request constitutes a deviation of less than 10% from the standard, and thus is found to be an appropriate and modest proposal to utilize the property for single-family development. This variance request represents an effort to mitigate impact to sensitive areas of the property. **Staff recommends approval of this variance request.**

2. Impervious Surface Coverage Standards

Code Requirement: *"The total maximum allowable coverage by impervious material within the sensitive lands portion of a project shall not exceed 30% of the area of those sensitive lands. Areas of roofs and private driveways will be estimated and included in the total impervious surface area."* (19.72.040.D of City Code)

Variance Request: Applicant requests 40% impervious surface coverage.

Applicant Responses to Variance Criteria:

- **How would literal enforcement of the zoning ordinance cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance?**
 - *"We would not be able to build a home on the lot if complying with the Impervious Surface Ordinance is enforced unless you refer to the part stating that if we have a GeoTechnical report dealing with the drainage, that would suffice. We have supplied you with that report."*
- **What are the special circumstances attached to the property that do not generally apply to other properties in the same district?**
 - *"Lot 16 is small. All of the other homes in the district were built before the Impervious Surface Ordinance was put in place."*
- **How is granting this variance essential to the enjoyment of a substantial property right possessed by other property in the same district?**
 - *"Granting the variance would allow us to build a home on our land like all the other homes in the district. We cannot build a home that does not meet the Restrictive Covenants. (See Restrictive Covenant attachment.) The home needs to be approximately the same size as other homes in the subdivision in order to not bring down the value or respect of the neighborhood."*

- **How will this variance not substantially affect the general plan and will not be contrary to the public interest?**
 - *“Approving the variance would definitely improve the looks of the subdivision and help with completing the general plan. The general plan is to have a home built on this lot that would add beauty to the subdivision. That is what we are trying to accomplish. This ordinance was written to control storm drain runoff onto adjacent properties. The front yard and driveway and front of the home will drain to the street. This water will go down the existing storm drain. Half of the garage and house equals 1600’ plus the driveway is 500’. Approximately 2100’ of the Impervious Surface area would drain to the street, that only leaves about 1600’ that would drain on site from the home.”*
- **How will the spirit of the zoning ordinance be observed, and substantial justice be done?**
 - *“Approving the variance would tie the subject property into conforming with the two adjoining properties as if the slopes had not been caused by indiscriminate dumping of dirt over the past 43 years. We would be able to build a home on this lot as was master planned back in 1979.”*

Staff Analysis

City code institutes a maximum impervious surface coverage of 30% for properties within the Sensitive Lands Overlay Zone. At the subject property’s size of 9,583.20 sq. ft. (0.22 acres), this 30% metric allots 2,874.96 sq. ft. of impervious surface coverage. Staff finds that this is a reasonable amount of square footage to construct a single-family home on the property, albeit one that may be smaller than that which is desired by the applicant.

The applicant states that limiting impervious surface coverage to 30% creates a hardship by preventing the future home from complying with the covenants, conditions, and restrictions (CC&Rs) for the Persimmon Tree Subdivision, which according to the applicant, require a certain size of home that is not compatible with this coverage maximum. CC&Rs are private agreements which the city does not regulate, defer to, or enforce. As such, staff finds that compliance with city codes should not be waived due to conflicting regulations in private agreements.

Additionally, the applicant states that the unique criteria of this property which does not generally apply to other properties in the same district is its “small size,” which when coupled with the private requirement to construct a home of a certain size, renders it impossible to build a home under the maximum impervious surface coverage. However, staff finds that the subject property’s size in fact exceeds that which is required by the underlying R-1-8 zoning. Within the R-1-8 zone, the minimum lot size is 8,000 sq. ft., and this lot measures at 9,583.2 sq. ft., thus demonstrating that this lot’s size is not a unique criterion of the property, as it in fact exceeds that size requirement for other properties within the same zoning district.

Staff finds that reasonable methods to reduce the amount of impervious surface coverage on site could include further exploration of a reduced house size, reduced pavement areas, and/or utilization of permeable pavement materials where appropriate. Additionally, the request to increase impervious

surface coverage is in direct conflict with the prior request to reduce overall buildable area. **Staff recommends denial of this variance request.**

3. Retaining Wall Standards

Code Requirement: *"Slope areas in excess of 30% may not be developed..." (19.72.040.A of City Code)*

Variance Request: Applicant requests to construct a retaining wall on top of a slope which exceeds 30%.

Applicant Responses to Variance Criteria:

- **How would literal enforcement of the zoning ordinance cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance?**
 - *"Approving the variance by building a strong retaining wall to control the flow of water could alleviate problems in the future with water flowing onto adjacent properties."*
- **What are the special circumstances attached to the property that do not generally apply to other properties in the same district?**
 - *"Lot 16 has areas with 30% slopes and a streambed."*
- **How is granting this variance essential to the enjoyment of a substantial property right possessed by other property in the same district?**
 - *"Granting the variance would allow us to build a home on our land like all the other homes in the district."*
- **How will this variance not substantially affect the general plan and will not be contrary to the public interest?**
 - *"Approving the variance would definitely improve the looks of the subdivision and help with completing the general plan. The general plan is to have a home built on this lot that would add beauty to the subdivision. That is what we are trying to accomplish."*
- **How will the spirit of the zoning ordinance be observed, and substantial justice be done?**
 - *"Approving the variance would tie the subject property into conforming with the two adjoining properties as if the slopes had not been caused by indiscriminate dumping of dirt over the past 43 years. We would be able to build a home on this lot as was master planned in 1979."*

Staff Analysis

The applicant states that prohibiting development on steep slopes (those in excess of 30%) would create an unreasonable hardship by preventing them from building the proposed home on this lot. Staff finds this variance request to directly conflict with the subsequent variance request, which proposes a reduction in front yard setback to push the proposed home nearer to the street. Considering staff's recommendation that this setback reduction be approved, staff does not see compelling evidence that

the home also needs to expand toward the rear of the lot through utilization of retaining walls on 30% slopes.

Staff finds that reasonable methods to avoid development on steep slopes could include a redesign of the home, less developed yard area, etc., and does not see compelling evidence that utilization of the sloped area is necessary for construction of a reasonable home. In deference to the Sensitive Lands Evaluation and Development Standards requirements, the priority should be avoidance of development on steep slopes, not a particular home footprint or design. **Staff recommends denial of this variance request.**

4. Front Setback Standards

Code Requirement: *"Setbacks/yard requirements are intended to provide a description of the required space between buildings and property lines. All buildings intended for human inhabitants shall maintain a minimum distance from property lines as follows... Front: 25 feet." (19.26.060.A.1 of City Code)*

Variance Request: Applicant requests a 20' front setback.

Applicant Responses to Variance Criteria:

- **How would literal enforcement of the zoning ordinance cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance?**
 - *"The steep slope of the lot creates a hardship but by approving the variance and moving the house forward five feet, it would mitigate some of that."*
- **What are the special circumstances attached to the property that do not generally apply to other properties in the same district?**
 - *"The lot contains areas with 30% man made slope."*
- **How is granting this variance essential to the enjoyment of a substantial property right possessed by other property in the same district?**
 - *"Granting the variance would allow us to build a home on our land like all the other nice homes in the district."*
- **How will this variance not substantially affect the general plan and will not be contrary to the public interest?**
 - *"Approving the variance would definitely improve the looks of the subdivision and help with completing the general plan. The general plan is to have a home built on this lot that would add beauty to the subdivision. That is what we are trying to accomplish."*
- **How will the spirit of the zoning ordinance be observed, and substantial justice be done?**
 - *"Approving the variance would tie the subject property into conforming with the two adjoining properties as if the slopes had not been caused by indiscriminate dumping of dirt over the past 43 years. We would be able to build a home on this lot as was master planned in 1979."*

Staff Analysis

The applicant states that requiring a front setback of 25' would create an unreasonable hardship for the applicant by preventing them from being able to build a home on this lot, due to the presence of steep slopes rendering the rear of the lot unusable. Staff finds that a request to push the home nearer to the front property line by five feet represents a minimal, reasonable variation which would allow the use of this property for a single-family home. Staff also finds that this setback reduction request represents a reasonable effort to comply with the Sensitive Lands Evaluation and Development Standards requirements, which prohibits development on 30% slopes. This variance request represents an effort to mitigate impact to sensitive areas of the property. **Staff recommends approval of this variance request.**

5. Sensitive Lands Evaluation and Development Standards

Code Requirement: "The provisions of this chapter shall apply to all lands in the city located in any area designated as a sensitive lands district on the city's official maps contained in Appendix A of this chapter." (19.72.020.A.1 of City Code)

Variance Request: Applicant requests that the Sensitive Lands Evaluation and Development Standards not apply to the subject property.

Applicant Responses to Variance Criteria:

- **How would literal enforcement of the zoning ordinance cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance?**
 - *"If the literal enforcement of the zoning ordinance was enforced, none of the homes on the west side of the street should have been approved to be built. There are just some lots that are buildable that require a little more engineering. It would improve the neighborhood more by having a home on the lot instead of an open area that was continually needing to be weeded. Before we purchased the lot, we met with a city representative to make sure we would be able to build on this lot. We also required fault studies to be done to make sure there would not be an issue because of a fault located on the property. We submitted the studies to the city. We were given a go ahead that the lot could be built on."*
- **What are the special circumstances attached to the property that do not generally apply to other properties in the same district?**
 - *"There are areas on this lot that have a 30% man made slope."*
- **How is granting this variance essential to the enjoyment of a substantial property right possessed by other property in the same district?**
 - *"Granting the variance would allow us to build a home on our land like all the other homes in the district."*

- **How will this variance not substantially affect the general plan and will not be contrary to the public interest?**
 - *“Approving the variance would definitely improve the looks of the subdivision and help with completing the general plan. The general plan is to have a home built on this lot that would add beauty to the subdivision. That is what we are trying to accomplish.”*
- **How will the spirit of the zoning ordinance be observed, and substantial justice be done?**
 - *“Approving the variance would tie the subject property into conforming with the two adjoining properties as if the slopes had not been caused by indiscriminate dumping of dirt over the past 43 years. We would be able to build a home on this lot as was master planned in 1979.”*

Staff Analysis

The applicant states that requiring compliance with the Sensitive Lands Evaluation and Development Standards chapter of city code creates an unreasonable hardship by preventing them from building a single-family residence on this property, and thus requests a variance from the entire chapter. Staff finds this request to be exceedingly broad and does not recommend approval of any variances which represent deviation from an entire chapter of city code, especially for a property which is located quite indisputably within the Sensitive Lands Overlay zone. This request does not constitute the minimum variation needed to relieve the alleged hardship. **Staff recommends denial of this variance request.**

Recommendation & Findings

Staff recommends approval of the following variance requests, based on the analysis provided within the staff report:

1. Buildable Area Standards
 - Code Requirement: 3500 sq. ft. building pad
 - Variance Request: 3200 sq. ft. building pad
4. Front Setback Standards
 - Code Requirement: 25' front yard setback
 - Variance Request: 20' front yard setback

Staff recommends denial of the following variance requests, based on the analysis provided within the staff report:

2. Impervious Surface Coverage Standards
 - Code Requirement: Maximum 30% impervious surface coverage
 - Variance Request: Approximately 39% impervious surface coverage
3. Retaining Wall Standards
 - Code Requirement: Development, including retaining walls, is not allowed on slopes measuring 30% or more
 - Variance Request: 10 foot retaining wall atop a slope measuring or exceeding 30%

4. Sensitive Lands Evaluation and Development Standards

- Code Requirement: Sensitive Lands Evaluation and Development Standards apply to properties within the Sensitive Lands Overlay Zone
- Variance Request: Remove the Sensitive Lands Evaluation and Development Standards from applying to this property

Model Motions

Approval

"I move to approve the following variance requests based on the findings outlined in the staff report:"

- *List the approved variance requests*
- *List any additional findings for approval*

Denial

"I move to deny the following variance requests based on the findings outlined in the staff report:"

- *List the denied variance requests*
- *List any additional findings for denial*

Attachments

1. Staff Review Feedback with Applicant Responses
2. Proposed Site and Grading Plan



Review Date: 1/6/23
File Number: AHO-22-003
Project Name: Hillam Variance
Project Location: 7950 S. Top of the World Dr.
Project Contact: Kenny Hillam
City Staff Contact: Samantha DeSeelhorst

We appreciate your time in reviewing these variances. By building a home on the property located at 7950 S Top of the World, we can add to the improvement of the community and this subdivision. We will help protect the area around and below the property from dirt sliding down to the property below, avoid excess snow melt & storm water runoff which could cause erosion. In addition, building a home will improve the subdivision by changing a lot that is an eyesore, to a place that all the neighbors and passersby can look at and enjoy.

The property would be maintained with plants and bushes with a sprinkling system instead of weeds for less of a fire hazard. We will try to preserve as much of the natural oak brush as possible with additional landscape compatible with the natural vegetation. With these variances approved so we can build this home, it will allow the impervious surface water to go down the storm drain or into the landscape instead of washing down the hill. To help with the erosion, the front area of the home and lot would slope to the street. We hope you will seriously consider approving these variances so this home can be built.

We have lived in Cottonwood Heights most of our married life and we take pride in a city that wants the best for its residence. We believe this home will be a welcome addition to this neighborhood. We have tried to address the comments you have made below and would like to get started on this home as soon as possible.

Mr. Hillam,

Prior to scheduling your variance application for formal consideration at an Appeals Hearing Officer meeting, staff has prepared the following feedback for your consideration. As is standard procedure, staff prepares a recommendation for all projects appearing before the Appeals Hearing Officer, and were your project taken to an Appeals Hearing Officer meeting today, this is the feedback staff would provide. The feedback below is organized by each of the variance requests you submitted.

Request 1: Buildable Area (Attachment 1)

The request made indicates an inability to meet the 3500 sq. ft. minimum buildable area required by 19.72.040.B.1 of Cottonwood Heights City Code. The request does not, however, specify the square footage measurement that is requested as an alternative, and thus does not satisfy the question, *"Does the variance you are requesting represent the minimum variation from this standard necessary? If so, how?"*

Staff recommends that you update this request to include the exact square footage of buildable area

you propose to provide, including evidence that this measurement is the minimum deviation from the 3500 sq. ft. needed to reasonably build on the lot.

Hillam Home Reply:

The home that we are proposing is 2285 sq. ft. on the main floor, the three car garage is 792 sq. ft. for a total square footage of 3077. We will be grading a building pad of approximately 3200 sq. ft.

Applicable Variance Worksheet

General Overview

- What is the standard you are requesting a variance from?
Sensitive Lands Ordinance, 3500 st. ft. Buildable Area
- What is the code reference within Cottonwood Heights City Code which requires this standard?
 - 19.72.040.B.1
- What are the characteristics of your property that prevent you from complying with this standard by creating an unnecessary hardship?
 - Lot 16 was developed in 1979, at the time this ordinance was not in place. It has 30% man made slopes in the buildable area.
- Does the variance you are requesting represent the minimum variation from this standard necessary? If so, how?
 - We would grade the lot to create the buildable area. We would be creating a building pad of approximately 3200 sq. ft.

State Code Variance Criteria

1. How does literal enforcement of the zoning ordinance cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance?
This zoning ordinance was passed after this subdivision and this lot were developed. Lots in 1979 usually did not meet this requirement. We would not be able to build a home on the lot without this variance being approved.
2. What are the special circumstances attached to the property that do not generally apply to other properties in the same district?
Lot 16 has 30% man made slopes on the lot. The developer did not grade the lots to comply with a 3500 sq. ft. building envelope because it was not required at the time.
3. How would granting the variance be essential to the enjoyment of a substantial property right possessed by other property in the same district?
Granting the variance would allow us to build a home on our lot like the other homes in the district.
4. Does the variance substantially affect the general plan and is contrary to public interest? Why or why not?
Approving the variance would definitely improve the looks of the subdivision and help with completing the general plan. The general plan is to have a home built on this lot that would add beauty to the subdivision. That is what we are trying to accomplish.
5. Does the variance ensure that the spirit of the zoning ordinance is observed and substantial justice done? Why or why not?
Approving the variance would tie the subject property into conforming with the two adjoining properties as if the slopes had not been caused by indiscriminate dumping of dirt over the past 43 years. We would be able to build a home on this lot as was master planned back in 1979.

Request 2: Impervious Surface Coverage (Attachment 2)

The request made indicates an inability to meet the 30% maximum impervious surface lot coverage, as required by 19.72.040.D of Cottonwood Heights City Code. Staff does not see compelling evidence that this request is necessary to construct a reasonable home on this lot, nor that the stated hardships of this lot have any relation to a need for increased lot coverage, given these factors:

1. 30% coverage on the subject property is approximately 2,875 sq. ft., which staff sees as a reasonable size to design within. As a platted lot, this property is of similar size and plat date to other properties in the area. No previous variances have been granted for this provision.
2. Should this request be made due to a desire to utilize impervious pavement materials for landscaping, staff finds that a more reasonable solution could entail the use of permeable pavement materials, or a reduced amount of pavement.

Hillam Homes Reply:

The Restrictive Covenants for Persimmon Tree Subdivision requirements are as follows:

2100 sq. ft. Home
625 sq. ft. garage
100 sq. ft. porch
96 sq. ft. walk
500 sq. ft. driveway
405 sq. ft. eaves

This total equals 3826 sq. ft. This is the minimum possible without changing the subdivision restrictive covenants. Are you requesting that we not comply with the restrictive covenants of the subdivision?

Applicable Variance Worksheet

General Overview

- What is the standard you are requesting a variance from?
Impervious Surface Ordinance
- What is the code reference within Cottonwood Heights City Code which requires this standard?
19.72.040.D
- What are the characteristics of your property that prevent you from complying with this standard by creating an unnecessary hardship?
Lot 16, is one of the smallest in the district. When the lot was developed, the Impervious Surface Ordinance requirement was not in place. We have a Geotechnical report that deals with drainage.
- Does the variance you are requesting represent the minimum variation from this standard necessary? If so, how?
In order to comply with the subdivision requirement of building a home that is at least 2100 sq. ft. and at least a two car garage and the lot size, we would not be able to build on this lot if the impervious surface ordinance is enforced. It does state that if we have a GeoTech report dealing with the drainage, that would suffice. (City Ordinance attachmnt

State Code Variance Criteria

1. How does literal enforcement of the zoning ordinance cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance?
We would not be able to build a home on the lot if complying with the Impervious

Surface Ordinance is enforced unless you refer to the part stating that if we have a GeoTechnical report dealing with the drainage, that would suffice. We have supplied you with that report.

2. What are the special circumstances attached to the property that do not generally apply to other properties in the same district?

Lot 16 is small. All of the other homes in the district were built before the Impervious Surface Ordinance was put in place.

3. How would granting the variance be essential to the enjoyment of a substantial property right possessed by other property in the same district?

Granting the variance would allow us to build a home on our land like all the other homes in the district. We cannot build a home that does not meet the Restrictive Covenants. (See Restrictive Covenant attachment.) The home needs to be approximately the same size as the other homes in the subdivision in order to not bring down the value or respect of the neighborhood.

4. Does the variance substantially affect the general plan and is contrary to public interest? Why or why not?

Approving the variance would definitely improve the looks of the subdivision and help with completing the general plan. The general plan is to have a home built on this lot that would add beauty to the subdivision. That is what we are trying to accomplish. This ordinance was written to control storm drain runoff onto adjacent properties. The front yard and driveway and front of the home will drain to the street. This water will go down the existing storm drain. Half of the garage and house equals 1600' plus the driveway is 500'. Approximately 2100' of the Impervious Surface area would drain to the street, that only leaves about 1600' that would drain on site from the home.

5. Does the variance ensure that the spirit of the zoning ordinance is observed and substantial justice is done? Why or why not?

Approving the variance would tie the subject property into conforming with the two adjoining properties as if the slopes had not been caused by indiscriminate dumping of dirt over the last 43 years. We would be able to build a home on this lot as was master planned back in 1979.

Request 3: Retaining Wall (Attachment 3)

The request made, in reference to 19.72.040.E of Cottonwood Heights City Code, indicates a desire to construct a 10' retaining wall atop a slope measuring or exceeding 30%. Staff does not see compelling evidence that this request is needed to accomplish the purposes of Section E, nor to construct a reasonable home on this lot. No indication has been provided to demonstrate that a wall of this height represents the minimum variation necessary:

- A shorter wall, although not allowing an extensive flat backyard, would still allow reasonable development of the property.
- Given the following variance request (Request 4: Front Setback), which indicates a desire to push the home closer to the front lot line, a simultaneous desire to expand the buildability of the rear of the lot should not be necessary.

Hillam Homes Reply:

Our current plan was to install a retaining wall using concrete blocks with rock fronts. We have attached photos of walls we have installed in the past on homes we have previously built. Block walls are better to build taller and are engineered with added strength. The ten foot height would only extend approximately 20' whereas the average height of the wall would be 6' or less. These walls do add a clean curb appeal to the area. The block wall would have less erosion and more water control.

We have also installed rock walls stepped in maximum 4' height. These would need to be terraced up the rear of the property. A variance would not be necessary, if we did the rock walls. We could

do either type of wall.

Applicable Variance Worksheet

General Overview

- What is the standard you are requesting a variance from?
Sensitive Lands, Retaining Walls
- What is the code reference within Cottonwood Heights City Code which requires this standard?
19.72.040.E
- What are the characteristics of your property that prevent you from complying with this standard by creating an unnecessary hardship?
Lot 16 has areas that have 30% slopes that drain into an existing streambed. The streambed has been blocked by a road. We would propose to put a 10' tall retaining wall across the old streambed to control the water runoff from the lot.
- Does the variance you are requesting represent the minimum variation from this standard necessary? If so, how?
The streambed is fairly deep, therefore, a shorter wall would not do much good.

State Code Variance Criteria

1. How does literal enforcement of the zoning ordinance cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance?
Approving the variance by building a strong retaining wall to control the flow of water could alleviate problems in the future with water flowing onto adjacent properties.
2. What are the special circumstances attached to the property that do not generally apply to other properties in the same district?
Lot 16 has areas with 30% slopes and a streambed.
3. How would granting the variance be essential to the enjoyment of a substantial property right possessed by other property in the same district?
Granting the variance would allow us to build a home on our lot like all the other homes in the district.
4. Does the variance substantially affect the general plan and is contrary to public interest? Why or why not?
Approving the variance would definitely improve the looks of the subdivision and help with completing the general plan. The general plan is to have a home built on this lot that would add beauty to the subdivision. That is what we are trying to accomplish.
5. Does the variance ensure that the spirit of the zoning ordinance is observed and substantial justice is done? Why or why not?
Approving the variance would tie the subject property into conforming with the two adjoining properties as if the slopes had not been caused by indiscriminate dumping of dirt over the last 43 years. We would be able to build a home on this lot as was master planned back in 1979.

Request 4: Front Setback (Attachment 4)

The request made indicates a desire to construct the proposed home nearer to the front lot line than allotted by 19.26.060 of Cottonwood Heights City Code. Staff finds that this request may be a reasonable response to mitigate the slope conditions on the rear of the lot, however it conflicts with the prior request (Request 3: Retaining Wall) which proposes to develop this rear portion.

Hillam Homes Reply:

By approving the 20' setback it would make a considerable difference in helping with the slope conditions and make it easier to drain the driveway to the street so excess water could be channeled down the public storm drain. We would rather have the 20' setback approved than the retaining wall variance because there are other options on the retaining wall, if it is a matter of choice and both cannot

be approved.

Applicable Variance Worksheet

General Overview

- What is the standard you are requesting a variance from?
R-1-Setback standard
- What is the code reference within Cottonwood Heights City Code which requires this standard?
19.26.060
- What are the characteristics of your property that prevent you from complying with this standard by creating an unnecessary hardship?
30% slope on the rear of the lot
- Does the variance you are requesting represent the minimum variation from this standard necessary? If so, how?
We are requesting a 20' driveway. By approving the variance, this would allow cars to park on the driveway without blocking the sidewalk. It would be better to do a 15' driveway but then cars would overlap the sidewalk which we would not want to do.

State Code Variance Criteria

1. How does literal enforcement of the zoning ordinance cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance?
The steep slope of the lot creates a hardship but by approving the variance and moving the house forward five feet, it would mitigate some of that.
2. What are the special circumstances attached to the property that do not generally apply to other properties in the same district?
The lot contains areas with a 30% man made slope.
3. How would granting the variance be essential to the enjoyment of a substantial property right possessed by other property in the same district?
Granting the variance would allow us to build a home on our land like all the other nice homes in the district.
4. Does the variance substantially affect the general plan and is contrary to public interest?
Approving the variance would definitely improve the looks of the subdivision and help with completing the general plan. The general plan is to have a home built on this lot that would add beauty to the subdivision. That is what we are trying to accomplish.
5. Does the variance ensure that the spirit of the zoning ordinance is observed and substantial justice is done? Why or why not?
Approving the variance would tie the subject property into conforming with the two adjoining properties as if the slopes had not been caused by indiscriminate dumping of dirt over the last 43 years. We would be able to build a home on this lot as was master planned back in 1979.

Request 5: Sensitive Lands Evaluation and Development Standards (Attachment 5) The request made indicates a general desire to deviate from the Sensitive Lands Evaluation and Development Standards Ordinance. Staff finds that this request is too broad, and will not recommend approval of a variance from an entire chapter of City Code.

Hillam Homes Reply:

We are requesting that when we build the home, we can make the side properties even with the adjoining neighbors property so we are not having to retain all of their runoff. When we dig the hole some of the area that has the 30% slope will be taken out because of where the house will sit. In the back of the lot there will still remain some of the slope as was master planned back in 1979 when the subdivision was developed.

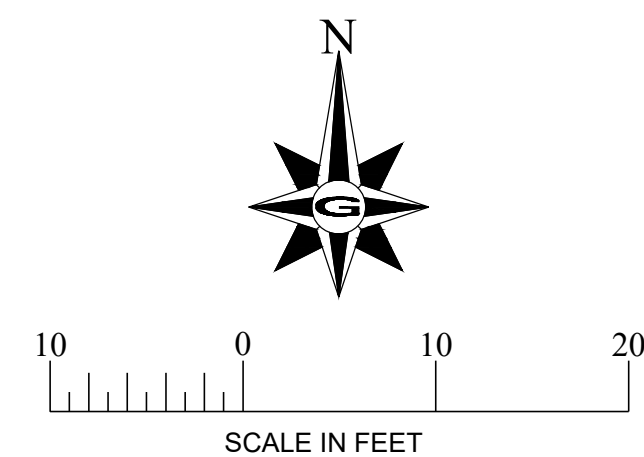
Applicable Variance Worksheet

General Overview

- What is the standard you are requesting a variance from?
Sensitive Lands Ordinance
- What is the code reference within Cottonwood Heights City Code which requires this standard?
19.72.040
- What are the characteristics of your property that prevent you from complying with this standard by creating an unnecessary hardship?
This lot has a manmade 30% slope in the buildable area. The slope was created by installing the road at the time the subdivision was developed and pushing fill without regard to the slope it was creating. Neighbors to the north, filling their lot and pushing excess fill onto the subject lot. Installers of storm drain pushing fill without regrading slopes.
- Does the variance you are requesting represent the minimum variation from this standard necessary? If so, how?
There is a 15' storm drain easement on the south side of the lot, this causes the lot to have a limited buildable frontage making it necessary to use the rest of the lot for the house. The front of the lot needs to be regraded to flow towards the street. In the backyard, we would like to put a retaining wall to alleviate the water from washing down the hill.

State Code Variance Criteria

1. How does literal enforcement of the zoning ordinance cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance?
If the literal enforcement of the zoning ordinance was enforced, none of the homes on the west side of the street should have been approved to be built. There are just some lots that are buildable that require a little more engineering. It would improve the neighborhood more by having a home on the lot instead of an open area that was continually needing to be weeded. Before we purchased the lot, we met with a city representative to make sure we would be able to build on this lot. We also required fault studies be done to make sure there would not be an issue because of a fault located on the property. We submitted the studies to the city. We were given a go ahead that the lot could be built on.
2. What are the special circumstances attached to the property that do not generally apply to other properties in the same district?
There are areas on this lot that have a 30% man made slope.
3. How would granting the variance be essential to the enjoyment of a substantial property right possessed by other property in the same district?
Granting the variance would allow us to build a home on our land like all the other homes in the district.
4. Does the variance substantially affect the general plan and is contrary to public interest? Why or why not?
Approving the variance would definitely improve the looks of the subdivision and help with completing the general plan. The general plan was to have a home built on this lot that would add beauty to the subdivision. That is what we are trying to accomplish.
5. Does the variance ensure that the spirit of the zoning ordinance is observed and substantial justice is done? Why or why not?
It would tie the subject property into conforming with the two adjoining properties as if the slopes had not been caused by indiscriminate dumping of dirt over the last 43 years. With the variance approved, we will be able to build a home on this lot as was master planned back in 1979.



TC = TOP OF CURB
 AC = ASPHALTIC CONCRETE
 FS = FINISH SURFACE (HARDSCAPE)
 GB = GRADE BREAK
 MFF = MAIN FINISHED FLOOR
 SBFF = SUB BASEMENT FINISH FLOOR
 FG = FINISH GRADE (LANDSCAPE)
 TOW = TOP OF WALL
 FG/BOW = BOTTOM OF WALL @ FG
 (NOT TOP OF FOUNDATION)

DIRECTION OF FLOW & SLOPE
 EXISTING GRADE
 PROPOSED GRADE
 EXISTING CONTOUR
 PROPOSED CONTOUR
 RIGHT-OF-WAY/PROPERTY LINE
 DEED LINES
 CENTERLINE
 EXISTING CURB, GUTTER & SIDEWALK
 EXISTING STRUCTURE
 FLOW LINE
 PROTECTED HILLSIDE AREA - TO REMAIN
 IN ITS NATURAL CONDITION. NO
 GRADING, CUTTING, FILLING OR
 CONSTRUCTION OF ANY KIND IS
 ALLOWED, EXCEPT AS APPROVED BY THE
 SANDY CITY ENGINEER.

UTILITY LOCATIONS SHOWN HEREON ARE APPROXIMATE ONLY. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE THE EXACT HORIZONTAL AND VERTICAL LOCATION OF ALL EXISTING UNDERGROUND AND OVERHEAD UTILITIES PRIOR TO COMMENCING CONSTRUCTION. NO REPRESENTATION IS MADE THAT ALL EXISTING UTILITIES ARE SHOWN HEREON. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR UTILITIES NOT SHOWN OR UTILITIES NOT SHOWN IN THEIR PROPER LOCATION.



REVISION: -

PROJ. # **KHH.010**

C.101



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02/25/20
No. 362118
Bradley S.
Gilson
STATE OF UTAH
LICENSED PROFESSIONAL ENGINEER

DATE: FEBRUARY 2020		DESIGNED/DRAWN BY:	
		JG/BP	
DRAWING NAME:			
REV DATE	BY COMMENTS		
REVISIONS			

* SCALE MEASURES * ON FULL SIZE SHEET

0 1"