

**Bountiful City
Administrative Committee Minutes
March 16, 2015**

Present: Committee Members – Lloyd Cheney and Dave Badham; Assistant Planner – Tayler Jensen; Recording Secretary – Darlene Baetz.

Excused: Chairman – Chad Wilkinson and Committee Member - John Marc Knight.

1. Welcome and Introductions.

Acting Chairman Dave Badham opened the meeting at 5:05 p.m. and introduced all present.

2. Consider approval of minutes for March 9, 2015.

Mr. Cheney made a motion to approve the minutes for March 9, 2015. Mr. Badham seconded the motion.

A Mr. Cheney
A Mr. Badham

Motion passed 2-0.

3. PUBLIC HEARING: Consider approval of a Conditional Use Permit to allow for Solar Panels at 806 North 650 East, Sterling Jensen, applicant.

Peggy Loomis with Intermountain Wind and Solar, representing Sterling Jensen, was present.

Tayler Jensen presented a summary of the staff report (the full staff report follows).

The property where the solar panels are to be installed is located in the R-4 Single Family Zone. Solar power panels are classified in the City Ordinance as “private power plants” and require a conditional use permit if they are over 10 Watts. The applicant has indicated that the photovoltaic system to be installed will produce 5.1 kilowatts (5,100 watts), requiring a conditional use permit.

The application submitted indicates the proposed installation of 1 photovoltaic array of 20 total panels. The array will occupy 350.8 Square Feet which is smaller than the 50% Maximum roof coverage. The array is on the south facing roof and is arranged in two rows with 12 panels on the upper row and 8 panels on the lower row. The roof has a slope of 4/12, is of truss construction, and was placed in 2014. The panels will be secured to the trusses with a Series 100 SnapNrack mounting system secured by 5/16” lag screws. A review of information provided in the application indicates that all engineering requirements for the construction of solar panels in Bountiful City will be met. A reflection analysis of the roof pitch indicates that photovoltaic panels should not produce a reflection nuisance to surrounding properties.

Based on the findings, staff has determined that the applicant would comply with all requirements for the conditional use permit. Staff recommends approval of the Conditional Use Permit with the following conditions:

1. The applicant shall obtain a building permit.
2. The panels must be installed only as proposed in the application.
3. This Conditional Use Permit is solely for this site and is non-transferable.

PUBLIC HEARING: Acting Chairman Badham opened the Public Hearing at 5:08 p.m., and the hearing was closed at 5:09 p.m. with no comment from the public.

Messrs. Badham and Cheney noted there was nothing unusual about this application and all questions had been answered thoroughly.

Mr. Cheney made a motion to approve a Conditional Use Permit to allow for Solar Panels at 806 North 650 East, Sterling Jensen, applicant. Mr. Badham seconded the motion.

A Mr. Cheney
A Mr. Badham

Motion passed 2-0.

4. **PUBLIC HEARING: Consider approval of a Variance to allow disturbance of areas with slopes greater than 30 percent for property addressed 1038 East Highland Oaks Drive, Dave and Tracy Zitting, applicants.**

Tom Durrant, representing David and Tracy Zitting, was present.

Tayler Jensen presented a summary of the staff report (the full staff report follows).

The applicants, Dave and Tracy Zitting have requested a variance to allow for construction on slopes exceeding 30% slope in the R-F Residential Foothill zone.

Section 14-2-111 authorizes the Administrative Committee as the review body for variance requests relate to requests to build on slopes greater than 30%.

The property is located at 1038 East Highland Oaks Drive within the R-F zoning district and is surrounded by single-family residential properties on all sides. Section 14-4-104 (A) requires all structures and all other site improvements of whatever description shall be located only upon areas constituting usable land... that is located entirely on ground of less than thirty percent (30%) slope, that does not encroach into required setbacks or easements, and that meets the area requirements as outlined in this section. The proposed improvement does not meet this standard, but was originally proposed in a location which did meet this standard; however, the site plan was altered in order to meet the required fire standard of being within 500 feet of the public road.

The entirety of the structure is to be located on slopes less than 30% but to accommodate the 500 foot maximum setback from the road the drive approach must disturb slopes of over 30%. The applicant has indicated that to conform to the 30% standard they would have to receive a variance to build the structure 520 feet from the street.

The applicants have submitted a narrative, which is attached to this report. The applicants describe the reason for the variance to comply with a fire standard which requires buildings to be located within 500 feet of the public road, something that cannot be accomplished without this variance. The applicants indicate that the variance will not substantially affect the general plan. The applicants also indicate having the structure located within 500 feet of the road is in the best interest of the public which is why a variance is being sought for the slope and not the distance from the road. The applicants argue that as only the approach will be located on slopes of greater than 30% that the spirit of the ordinance is observed by granting this variance.

The intent of the law is that everyone follow the same standards. Variances from the standards must be based on special circumstances specific to the property that constitute a hardship, such as the lot shape, location of existing utilities, topography or another characteristic that is not found in other similarly zoned properties. State law prohibits approval of variances based on financial hardship or variances based on self imposed hardship. The applicants claim that as a flag lot there exists a hardship on the property that does not affect any of their neighbors, and which has arisen from no fault of their own, which justifies the need for a variance. The shape of the lot does constitute a unique circumstance which creates difficulty in development, and the proposal does not impose on the rights or enjoyment of any of the neighboring properties.

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;*

The need for the variance arises from the unique flag lot shape of the property. The only other option for development that exists on the property includes getting a variance to be more than 500 feet from the public road. Without a variance the applicants are deprived of the ability of constructing a home on property meeting the access standards of the Code.

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

The flag lot nature of the property constitutes a special circumstance as none of the neighboring properties are flag lots, and therefore the neighboring properties do not struggle to sit within 500 feet of the public road.

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

Because the only way to conform to the 30% slope rule would be to require a variance to the 500 foot rule there exists a situation in which granting the variance is necessary to provide the same property and building rights that are possessed by other properties in the zone.

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

The only development on the 30% slope is for the entry approach, and it is the public interest to have the home located within 500 feet of the property for fire safety. Allowing this variance doesn't significantly alter or affect the general plan, and it is unlikely to have any negative impacts on zoning regulations or neighboring properties.

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

The purpose of the land use ordinance that requires improvements be located on slopes less than 30% is to preserve the hills and manage runoff and erosion on properties located in the foothills. The proposed development on the slope over 30% is minimal, and is necessary to meet other codes and is found to comply with the spirit of the ordinance.

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

PUBLIC HEARING: Acting Chairman Badham opened the public hearing at 5:15 p.m., and the hearing was closed at 5:15 p.m. with no comment from the public.

Mr. Durrant noted this variance would be for the greater good of the public. Originally he had planned on observing the 30% rule, but Mr. Paul Rowland pointed out that the 500 foot rule was more important in this case, so plans were revised.

Mr. Cheney noted the biggest impact comes from the driveway width as the City requires a 20 foot wide driveway in the foothill zone. Mr. Badham clarified this project is new construction, and Mr. Durrant affirmed. Mr. Badham made an inquiry regarding retaining walls. Mr. Durrant explained there will be retaining walls on each side which will be built to the city standard of 10 feet or less, with material of Redi-rock and boulders, and the walls will require a separate permit. Mr. Durrant pointed out there is plenty of room for fire truck turnaround. Mr. Badham asked regarding a geo-technical survey. Mr. Durrant answered in the affirmative and explained the survey shows a few test holes and everything looks great. It is all virgin ground and heavily wooded, and Mr. Durrant has received a green light. Mr. Badham asked if the study contained recommendations regarding the retaining walls. Mr. Durrant responded there were no specifications regarding the retaining walls. The report said it was virgin ground and contained an explanation of the types of soil. Mr. Badham noted this is typically a wet area, and the soil can be pretty damp. Mr. Durrant noted that drainage is

going to be very important for the retaining walls and it will be crucial to have enough space between the home, the garage and the retaining wall to allow for good drainage. The retaining wall is part of what is pushing the 30% rule.

Mr. Cheney made a motion to approve a Conditional Use Permit to allow for a Variance to allow disturbance of areas with slopes greater than 30 percent for property addressed 1038 East Highland Oaks Drive, Dave and Tracy Zitting, applicants. Mr. Badham seconded the motion.

A Mr. Cheney
A Mr. Badham

Motion passed 2-0.

- 5. Consider approval, in written form, of a Conditional Use Permit to allow for an Accessory Dwelling Unit at 1038 East Highland Oaks Drive, David and Tracy Zitting, applicants.**

Mr. Badham made a motion to approve a Conditional Use Permit, in written form, to allow for an Accessory Dwelling Unit at 1038 East Highland Oaks Drive, David and Tracy Zitting, applicants. Mr. Cheney seconded the motion.

A Mr. Cheney
A Mr. Badham

Motion passed 2-0.

- 6. Miscellaneous business and scheduling.**

Acting Chairman Badham ascertained there were no further items of business.

The meeting was adjourned at 5:27 p.m.



Chad Wilkinson, City Planner