



CITY OF NORTH SALT LAKE

**MEETING NOTICE OF THE
CITY OF NORTH SALT LAKE HEARING OFFICER**

December 18, 2014

5:30 p.m.

Posted December 17, 2014

Notice is given that the City of North Salt Lake Hearing Officer will hold a meeting on THURSDAY, DECEMBER 18, 2014 at 5:30 p.m. at City Hall located at 10 East Center Street in North Salt Lake. The agenda for this meeting is below. The order and time of agenda items may change as needed.

AGENDA

- 5:30 Welcome
- 5:35 Consideration of a proposed variance related to the height of an accessory building located at 179 South Orchard Drive.
- 6:00 Adjourn

The public is invited to attend all City Council meetings. If you need special accommodations to participate in the City Council meeting, please call the City office at 801-335-8709. Please provide at least 24 hours notice for adequate arrangements to be made.



NORTH SALT LAKE COMMUNITY AND ECONOMIC DEVELOPMENT

10 East Center Street
North Salt Lake, Utah 84054
(801) 335-8700
(801) 335-8719 Fax

MEMORANDUM

TO: North Salt Lake Hearing Officer

FROM: Ken Leetham, Assistant City Manager
Ali Avery, City Planner

DATE: December 18, 2014

SUBJECT: Consideration of an application for a variance to the height of an accessory building located at 179 South Orchard Drive. Rachel Beall, applicant.

RECOMMENDATION

City staff recommends denial of the proposed variance to the height of an accessory building located at 179 South Orchard Drive based upon the findings of fact in this report.

BACKGROUND

This is a request to obtain a variance to the City's Code regulations regarding the height of accessory buildings for the existing garage located at 179 South Orchard Drive. The subject property is located in the R1-10 zoning district.

History

This particular variance request originated from an administrative decision made by City staff regarding the height of accessory buildings. The applicant asked if they would be allowed to raise the overall height of the existing garage on their property due to a need to repair the roof structure. City staff determined that raising the height of the garage would not be permitted, as it would violate City Code 10-1-28: "No building which is accessory to a one-family, two-family, three-family, or four-family dwelling shall be erected to a height greater than one story or twenty feet (20'), whichever is lower, nor be higher, nor contain greater square foot floor area than the principal building to which it is accessory." The proposed roof height would exceed the height of the home on the property (the "principal building"). Additionally, the applicant is requesting that the height of the roof be raised in order to accommodate legal living space above the garage area. There is currently space above the garage that "is not suitable even for storage", according to the application materials, because the roof height of the space is too low. The existing space above the garage violates the City Code in that it makes the garage two stories tall. The applicant was given the requirements to qualify for a variance, and instructed to

submit an application that addresses each requirement. An application for a variance was submitted on November 11, 2014.

Upon review of the variance request by City staff, it was determined that the primary structure was built in 1962. Assuming that the garage was constructed at the same time, or any time after the primary structure, (which the City does not have a record of) City staff reviewed the City Code requirements regarding accessory buildings in the City Code that was in place at the time of construction. The zoning ordinance in place in 1962 states: "4-3-7. MAXIMUM HEIGHT OF ACCESSORY USE BUILDINGS: No building which is accessory to a one-family, two-family, three-family, or four-family dwelling shall be erected to a height greater than one story." The definition of "story" in the 1962 City Code states: "1-10(88) STORY: That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor or ceiling next above." Therefore, it has been determined by City staff that the area above the garage appears to have been constructed illegally at some point in time, and that raising the roof height at this time would be an expansion of an illegal structure.

The variance request

On November 11, 2014, a variance request was submitted by Rachel Beall, the property owner. That request is attached to this report. The variance being requested is to re-construct the roof of an existing garage roof up to 18 inches higher than the existing roof. The City Code currently requires that accessory buildings may not be erected to a height greater than one story, and they may not be higher than the principal building to which they are accessory. The effect of granting such a variance would be to seek relief from both of those requirements, as the roof height would exceed that of the home on the property, and the garage would be two stories tall. In order to comply with City Ordinances, the second story of the garage would need to be removed and the roof height could not be raised.

Analysis

Utah State Code has very specific criteria as to how a variance may be granted. Those criteria are identified in Utah State Code Section 10-9a-702, which is attached to this report. Identical criteria have been adopted in the City's Land Use Ordinance (See attached Section 10-2-2D, City Code). Section 10-9a-702(2)a, Utah Municipal Code, states:

"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."

This portion of the report will go through each of these criteria and attempt to provide the Hearing Officer with an evaluation of this request as it relates to these provisions.

(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;

This provision is an evaluation first of whether or not an unreasonable hardship exists for the applicant if they are made to comply with the terms of the Land Use Ordinance regarding the allowed height of accessory buildings. Further sections of the Utah Municipal Code have been adopted by the Legislature to try and clarify what is meant by the term “unreasonable hardship” and how the appeal authority should try to define it and apply it in their review of variance requests.

A portion of Subsection 10-9a-702(2)b(i) states, “. . . 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.”

In attempting to determine if an unreasonable hardship exists, the applicant’s circumstances do meet subsection (A) above in that the hardship is located on the property where the variance is sought.

A review of whether or not there are circumstances peculiar to the property, and not from conditions that are general to the neighborhood would indicate that the only unusual circumstance related to this property is that it is the only detached garage in the neighborhood that has two stories, which is a direct violation of the City Code. The property is a typical property for the neighborhood and the R1-10 zoning district.

In addition, there are no special easements or physical conditions existing on the lot that would cause these owners to have a compelling need to construct a two-story accessory building. Generally in the application of relief standards throughout the United States and in Utah Code, successful variance requests are those where very unique circumstances have been identified that are particular only to the specific property involved. A typical example would be some natural physical feature of the property such as a watercourse, wetland, rock outcropping, unusual soil condition, steep slope or other physical characteristic that prevents an owner from enjoying a right to use their property in a similar fashion as other owners or lots that are located within the same zoning district or neighborhood, but are devoid of those same physical features.

Other common relief standards are those where either a public agency such as a municipality, state, federal or special district has affected the property in a unique way. These circumstances might include the existence of a large underground storm drain or sewer transmission line that renders all or a portion of the property unbuildable, a public easement for regional trails or a federally designated sensitive land area (wetland or park feature). Semi-public utility agencies

may also damage the full use of property through actions such as the placement of a major electric transmission corridor or a large underground gas transmission line such as the Kern River facility running through portions of North Salt Lake. Upon contemplation of these types of circumstances one begins to understand that the purpose of the relief standards are fairly narrow and do not apply to every lot, but only in those cases where the most unique circumstances come together to deprive a property owner of a right enjoyed by others. Indeed, it is due to this narrow application of relief by variance that the Utah Municipal Code and City Land Use Ordinance further define an unreasonable hardship as one that is **not** self-imposed or economic. Variances granted due to self-imposed and economic hardships would be far too broad and would result likely in variances of all types and in many circumstances. City staff finds that this variance request is, in fact, self-imposed and an economic hardship. The second story of the garage unit was originally constructed in violation of City Code and remains that way today. City staff would claim that the hardship is self-imposed due to the legality of the second story construction. Additionally, the applicant has requested to raise the height of the garage in an attempt to utilize the property to, what they believe, is the full economic value. The second story of the garage was originally appraised as living space, although the space was illegally constructed. The hardship they are claiming regarding the appraised value is simply an economic one.

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

A portion of Subsection 10-9a-702(2)c states, “ 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.

It is the City staff’s opinion and recommendation to the Hearing Officer that there are no special circumstances attached to the property that do not generally apply to other properties in the same zone. State Code indicates that special circumstances exist only if they: “deprive the property of privileges granted to other properties in the same zone.” The property is located in the R1-10 zoning district, wherein single-family homes are the primary land use. The City Code requirements regarding accessory buildings are applicable to all one-family, two-family, three-family, or four-family dwellings in the City. The Code requirement does not deprive the property owner of any privileges granted to other properties in the same zone, because the Code requirement is applied City-wide in all those types of residential areas.

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

As was mentioned in the previous requirement regarding special circumstances on the property, this property is not being deprived of a substantial property right that is possessed by other properties in the same zone. All single-family, two-family, three-family, or four-family dwellings in the City have been subject to the accessory building Code requirement since at least 1962, when the primary structure on the property was constructed.

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

This criteria is a little more difficult to define, but seems to be the idea of whether or not the variance would be significantly detrimental to the overall purposes of the general plan or contrary to the public interest at large. City staff acknowledges that the majority of the detrimental impacts, if any, in this circumstance exist today without the requested increase in height. This is because the accessory building in question is already two stories in height (or has the appearance of two stories) and is nearly the same height as the principal structure. Indeed, if the proposed construction is done, even though only 18 inches in additional height, the garage will exceed the height of the home on the property. So, though it is possible to claim that the majority of the substantial affect to the general plan may have already occurred, staff would argue that increasing that detrimental impact, even though admittedly small, is contrary to the general plan and the public interest.

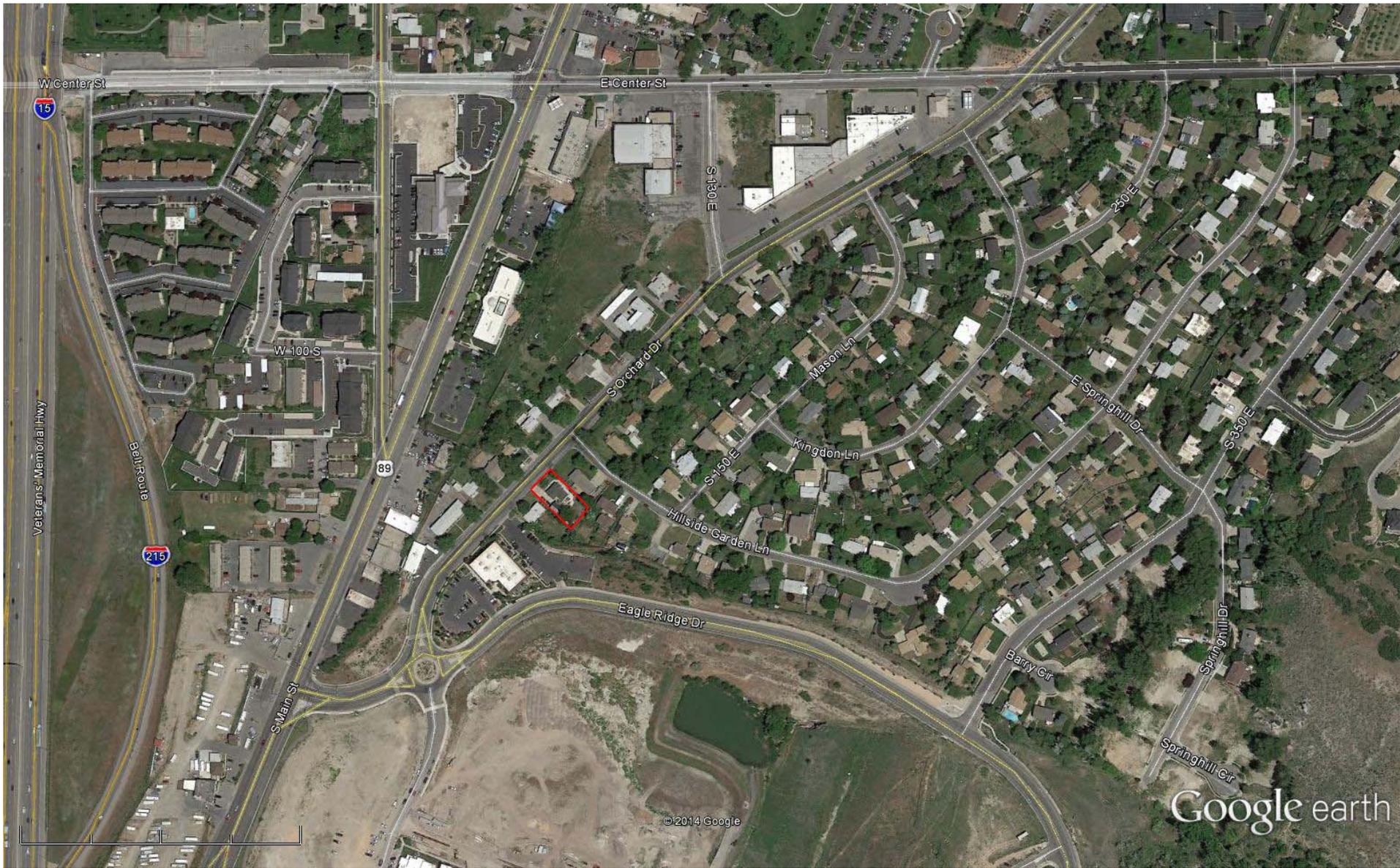
(v) the spirit of the land use ordinance is observed and substantial justice is done.

In most decisions made by the City, there is a burden to determine the impacts of the decision by whether or not the decision, if applied to all identical circumstances citywide, would be consistent with the City's goals, objectives and policies. Good public policy is made by evaluating the potential impacts of goals, decisions, plans, etc. on all members of the community. There is an implied fairness to such decisions in that parties in similar circumstances may expect similar treatment and experience similar outcomes. While that same decision-making consideration is not the responsibility of the Hearing Officer and the Hearing Officer's actions in this matter do not create a precedent of any kind due to the individual nature of the decision, it is the City staff's opinion that the narrow approval authorization granted to the appeal authority exists so that variances are not granted except only in those narrow and limited circumstances where conditions merit that relief. In other words, compliance with the accessory building requirements regarding prohibition of two-story accessory buildings and limiting the height of the accessory structure to be below the height of the primary structure is the correct and most protective of the public interest for both the public at large and individual members of the public. A routine granting of variances just because current or previous owners have failed to comply with City Code requirements is not in the best interest of the general plan or in the public interest.

In short, City staff would recommend that the spirit of the Land Use Ordinance is to protect all members of the public equally. Further, substantial justice in this case means that all property owners should be able to rely on the proper application of the laws that protect their property rights as well as the applicants', and that the interest of the City at large is protected in maintaining the appearance and property values of existing neighborhoods in the City.

Attachments

- 1) Vicinity map
- 2) Location map
- 3) Variance application materials submitted by the applicant.
- 4) A copy of Section 10-9a-702, Utah Municipal Code, relating to variances
- 5) A copy of Section 10-2-2, City Code, relating to Hearing Officer duties
- 6) A copy of the current Section 10-1-28, City Code, relating to the maximum height and floor area of accessory buildings.
- 7) A copy of the 1962 Section 4-3-7, City Code, relating to the maximum height of accessory use buildings.



Google earth

feet
meters





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Google earth

feet
meters



Variance Request

In re: 179 S Orchard Dr., North Salt Lake, UT

Date of Request: 10/13/2014

Page 1 of 8

This waiver request concerns a detached garage built as an accessory building to a residential single-family dwelling located at 179 S. Orchard Drive in North Salt Lake. The garage structure is unique to the neighborhood. The property owner, Rachel Beall, hereby requests a variance from city code section 10-1-28 (See, Ord. 93-5, 7-6-1993, not attached).

Summary:

The variance requested would grant Ms. Beall permission to rebuild the garage roof up to 18 inches higher than the existing roof. The roof will have to be raised a maximum 18 inches to bring the room over the garage over its current 81 inch height and allow the family to use the space as originally intended. The value of the property depends on the status of this space and not bringing it up to code would impose a significant hardship on the owner family, as they would not realize their full investment in the property.

History:

The dwelling was originally built in 1962; it is unknown if the garage was built simultaneously. The property has been continuously occupied by the Beall family since 2003. When purchased by the Beall family, the property, dwelling and accessory buildings were extremely distressed. Over the past eleven years, the Beall family has invested a great deal of time, effort and money to bring the property up to code and good condition and has added value to the land and subsequently, the neighborhood.

When purchased, the property was appraised at a certain value due to space included above the detached garage. (*See*, Appraisal excerpt on pages 4-5,) The family purchased the home based on that valuation and has paid taxes on that same property value, plus appreciation, for eleven years. (*See*, Excerpt of MLS listing on page 3)

However, the builders of the detached garage built the upper garage room at a height of less than seven feet, which, according to code, is uncountable as living space. That condition was not noted at the time of sale, and the property was purchased with the assumption that if the space was taxable, it was usable. The family's original hope for the space was to use it as a home office, but the family has never realized enjoyment of the space for that or any other purpose.

The space is currently empty and not suitable even for storage.

The roof over the structure was poorly constructed and has leaked since the purchase of the property. It has degenerated to the point of threatening the structure's integrity. The roof

Variance Request

In re: 179 S Orchard Dr., North Salt Lake, UT

Date of Request: 10/13/2014

Page 2 of 8

over the garage is distressed and unsafe and must be replaced immediately to avoid further damage to the structure during the winter. (*See*, photos of the garage on page 6)

Variance Request

The city should grant a variance because the proposed re-roofing of the garage will raise the overall height of the garage no more than 18 inches, thereby entitling the family to enjoy the upstairs room as living space as they originally intended upon purchase of the property. Should the family be permitted to raise the height of the roof a maximum of 18 inches, the interior height would meet code requirements for living space, which the family would develop into an attractive feature of the property.

If the city does not grant the variance, that decision decreases the overall living space of the property and therefore, devalues the property to a significant extent, and the family will endure a financial hardship due to investment loss on the real property, as well as difficulty refinancing or selling the home in the future. Strict enforcement of the ordinance would cause an unreasonable hardship for the family that is not necessary to carry out the general purpose or intent of the land use ordinances, as the impact of the variance on the neighborhood and community is negligible.

The detached garage is recessed from the main dwelling and the visual impact of the variance would be insignificant. Because the property is situated on a hillside and west of an adjoining yard, no neighboring views or property uses would be impacted by this variance. Furthermore, the garage is not viewable from the street at most points of the frontage of the property and because of the angle from the street, that view would not change with the variance. (*See*, street view photos of the property on page 8) Thus, the spirit of the ordinance would be observed.

There are other properties in the neighborhood with a detached garage, and this request constitutes a special circumstance because none were built on a similar slope nor are they two stories. Some properties in the neighborhood have converted garage space into living space in the same zone. (*See*, map of the area on page 8)

There would be no significant impact on adjoining properties, the change in appearance would be unnoticeable, the variance would allow for strengthening the roof structure and would upgrade the appearance and value of the neighborhood as well as relieving the hardship on the family. The approval of city officials is hereby respectfully requested.

Variance Request

In re: 179 S Orchard Dr., North Salt Lake, UT

Date of Request: 10/13/2014

Page 3 of 8

/s/ Rachel N. Beall, Owner

Attachments:

Excerpt of MLS listing:

Exterior: Brick
Landscape: Full Landscaping
Lot Facts: Curb & Gutter, Fenced Part, Secluded Yard, Sidewalks, Sprinkler - Auto-Part, Terrain, Grad Slope, Private Yard
Exterior Feat: Out Bldgs, Patio, Sliding Glass
Interior Feat: Den/Office, Dishwasher, Disposal, Kitchen-Updated, Master Bath, Range Oven Built In
Amenities: Cable TV avail, Cable TV wired, Electric Dryer Hookup
Inclusions: Range, Range Hood, Storage Sheds, Water Soft Own, Window Covers, Workshop
Exclusions: Dryer, Microwave, Refrigerator, Washer, Wood Stove
Terms: FHA, Conventional, VA, Cash
Remarks: [View Agent Remarks] Excellent Purchase Opportunity*Central Location*Extra Parking*Entertainment Room Above Detached, Oversized, Heated Garage(220 Wired)*Jetted Tub & Garden Tub in Main Baths*Large Rooms*Crown Molding in Updated Kitchen*Huge Laundry Area*Workshop Included
Show Inst: Keybox, Vacant
Contact: A:Carolyn
L/Office: A:Max Real Estate Services
L/Agent: Carolyn Boyter
BAC/SAC: 2.5-3 /
Lim-Rep: No
Ownr: 846*Smith/Winn
Ph: 801-599-2503
Ph: 801-254-9300
Fax: 801-964-1837
Subagency: No
Off Mkt Dt:
Ph2: 801-964-1891
Fax: 801-254-4705
Mbl: 801-599-2503
Lst Type: ERS
Exp Dt: 08/15/2004

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Appraisal:

Variance Request

In re: 179 S Orchard Dr., North Salt Lake, UT

Date of Request: 10/13/2014

Page 4 of 8

521-5410551
File No. 179Orchard-1103

UNIFORM RESIDENTIAL APPRAISAL REPORT

Property Description: **179 So. Orchard Drive** City: **North Salt Lake City** State: **UT** Zip Code: **84054**

Legal Description: **All of Lot 3, Hillside Gardens, Cont. 0.25 Acres** County: **Davis**

Assessor's Parcel No: **01-110-0003** Tax Year: **2002** R.E. Taxes: **1,028.28** Special Assessments: **N/A**

Owner: **Jason/Cristle Smith** Contact Owner: **REG** Occupant: Owner Tenant Vacant

Property Rights Appraised: Fee Simple Leasehold Project Type: PUD Condominium (H.O.V.A. apply) HOA#: **N/A** Ass.:

Neighborhood/Project Name: **N/A** Map Reference: **7160** Census Tract: **1284-04**

Sale Price: **N/A** Date of Sale: **N/A** Description and amount of loan charges/concessions to be paid by seller: **N/A**

Lender/Cliant: **Cartel Asset Management, Inc.** Address: **8871 Wolff Court, Suite 300, Westminster, CO 80031**

Appraiser: **Blake Ingram, SRA** Address: **P.O. Box 58105, Salt Lake City, UT 84168-0105**

Location	<input checked="" type="checkbox"/> Urban	<input checked="" type="checkbox"/> Suburban	<input type="checkbox"/> Rural	Predominant occupancy	Single family housing	Present land use %	Land use change
Built up	<input checked="" type="checkbox"/> Over 75%	<input type="checkbox"/> 25-75%	<input type="checkbox"/> Under 25%	<input checked="" type="checkbox"/> Owner	PRICE	One family 70%	<input checked="" type="checkbox"/> Not likely <input type="checkbox"/> Likely
Growth rate	<input checked="" type="checkbox"/> Rapid	<input checked="" type="checkbox"/> Stable	<input type="checkbox"/> Slow	<input type="checkbox"/> Tenant	100 Low	2-4 family 5%	<input type="checkbox"/> In process
Property values	<input type="checkbox"/> Increasing	<input checked="" type="checkbox"/> Stable	<input type="checkbox"/> Declining	<input checked="" type="checkbox"/> Vacant (0-5%)	500 High	Multi-family 10%	
Demand/supply	<input type="checkbox"/> Shortage	<input checked="" type="checkbox"/> In balance	<input type="checkbox"/> Over supply	<input type="checkbox"/> Year over 5%	150	Commercial 5%	
Marketing time	<input type="checkbox"/> Under 3 mos.	<input checked="" type="checkbox"/> 3-6 mos.	<input type="checkbox"/> Over 6 mos.		40	Vacant 10%	

Note: Race and the racial composition of the neighborhood are not appraisal factors.

Neighborhood boundaries and characteristics: **2700 South Street on the north; Davis Boulevard and Eagle Ridge Golf Course on the east; Eagle Ridge Drive on the south; I-16 Freeway on the west.**

Factors that affect the marketability of the properties in the neighborhood (proximity to employment and amenities, employment stability, appeal to market, etc.): **The subject is located in an established residential neighborhood comprised primarily of detached single family dwellings. Commercial zoning is located along arterial streets. All essential services are within about five miles.**

Market conditions in the subject neighborhood (including support for the above conclusions related to the trend of property values, demand/supply, and marketing time -- such as data on competitive properties for sale in the neighborhood, description of the prevalence of sales and financing concessions, etc.): **Current market conditions indicate a stable market with average demand for residential real estate. Mortgage rates are at the 5.75 to 6.0 percent range. Sellers typically are making concessions and will often pay 3 to 5 points toward buyers' loan costs.**

Project Information for PUDs (if applicable) -- Is the developer/builder in control of the Home Owners' Association (HOA)? YES NO

Approximate total number of units in the subject project: **N/A** Approximate total number of units for sale in the subject project: **N/A**

Describe common elements and recreational facilities: **N/A**

Dimensions: **See plat map.** Corner Lot: Yes No

Site area: **0.25 ac.**

Specific zoning classification and description: **R-1-10**

Zoning compliance: Legal Legal, nonconforming (grandfathered use) Illegal No zoning

Highest and best use as improved: Present use Other use (explain)

Utilities	Public	Other	Off-site Improvements	Type	Public	Private
Electricity	<input checked="" type="checkbox"/>		Street	Asphalt	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gas	<input checked="" type="checkbox"/>		Curbs/gutter	Concrete	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Water	<input checked="" type="checkbox"/>		Slowwalk	Concrete	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sanitary sewer	<input checked="" type="checkbox"/>		Street lights	None	<input type="checkbox"/>	<input type="checkbox"/>
Storm sewer	<input checked="" type="checkbox"/>		Allow	None	<input type="checkbox"/>	<input type="checkbox"/>

Comments (apparent adverse easements, encroachments, special assessments, slide areas, illegal or legal nonconforming zoning, etc.): **The site fronts on Orchard Drive, a neighborhood traffic artery.**

GENERAL DESCRIPTION		EXTERIOR DESCRIPTION		FOUNDATION		BASEMENT		INSULATION	
No. of Units	One	Foundation	Concrete	Slab	None	Area Sq. Ft.	889.5	Roof	Cncld
No. of Stories	One	Exterior Walls	Brick/Alum	Crawl Space	Partial	% Finished	75%	Ceiling	Present
Type (Det./Att.)	Detached	Roof Surface	Asph/Shingle	Basement	Partial	Ceiling	Acc. Tile	Walls	Cncld
Design (Style)	Rambler	Gutters & Downsp.	Aluminum	Sump Pump	None	Walls	DW/Panel	Floor	Cncld
Existing/Proposed	Existing	Window Type	Alum/Sl/Pane	Demonstrates	None noted	Floor	Carpet	None	<input type="checkbox"/>
Age (Yrs.)	41 Yrs	Storm/Screen	Storm	Settlement	None noted	Outside Entry	No	Unknown	<input type="checkbox"/>
Effective Age (Yrs.)	35 Yrs	Manufactured House	No	Instellation	None noted				

ROOMS	Foyer	Living	Dining	Kitchen	Den	Family Rm	Rec. Rm	Bedrooms	# Baths	Laundry	Other	Area Sq. Ft.
Basement						1		1	.75	1		900
Level 1		1		1	1			2	2			1,375
Level 2												0

Finished areas above grade contains: **5 Rooms; 2 Bedroom(s); 2 Bath(s); 1,375 Square Feet of Gross Living Area**

INTERIOR	Materials/Condition	HEATING	KITCHEN EQUIP.	ATTIC	AMENITIES	CAR STORAGE
Floors	Carpet/Vinyl/Fair	Type	Refrigerator	None	Preplace(s) #0	None
Walls	Drywall/Paint/Fair	F. H.	Range/Oven	Stairs	Partic	Garage
Trim/Finish	Paint/Fair	Condition	Avg.	Drop Stair	Deck	Attached
Bath Floor	Vinyl/Poor	COOLING	Dishwasher	Built-in	Porch 2	Detached
Bath Wainscot	Tile/Over Tub/Fair	Cent. of	Yes	Floor	Fence	Built-in
Doors	H.C. Slab/Avg	Other	None	Hearth	Pool	Carport
		Condition	Avg.	Finished		Driveway
			Washer/Dryer			Concrete

Additional features (special energy efficient items, etc.): **See Attached Addendum.**

Condition of the improvements, depreciation (physical, functional, and external), repairs needed, quality of construction remodeling/additions, etc.: **Overall condition rated fair. See attached REG addendum for a list of suggested repairs. Functional obsolescence applied to the subject because there is no hallway access to the master bedroom addition. External obsolescence applied because the site fronts on a busy street.**

Adverse environmental conditions (such as, but not limited to, hazardous wastes, toxic substances, etc.) present in the improvements, on the site, or in the immediate vicinity of the subject property: **None noted. However, the subject was built before 1978. Houses built before 1978 may contain lead based paint.**

PAGE 1 OF 2

Form No. 1004 (6-03)

Variance Request

In re: 179 S Orchard Dr., North Salt Lake, UT

Date of Request: 10/13/2014

Page 5 of 8

No. 1272 P. 6

521-6410661
File No. 179Orchard-1108

UNIFORM RESIDENTIAL APPRAISAL REPORT

Dec. 19, 2003 8:49AM

Valuation Section

ESTIMATED SITE VALUE = \$ 45,000

ESTIMATED REPRODUCTION COST-NEW OF IMPROVEMENTS:

Dwelling	1,375 Sq. Ft. @ \$ 63.66	= \$ 87,381
Bamf. 900	Sq. Ft. @ \$ 27.43	= 24,887
Porches & Finished area over garage		= 19,537
Garage/Carport	824 Sq. Ft. @ \$ 19.66	= 12,205
Total Estimated Cost New		= \$ 143,810
Less Physical		
Functional	\$9,000	\$5,000
External		
Est. Remaining Econ. Life:		16
Depreciation 45%		= \$ 78,718
Depreciated Value of Improvements		= \$ 65,092
"As-Is" Value of Site Improvements		= \$ 4,000
INDICATED VALUE BY COST APPROACH		= \$ 117,100

Comments on Cost Approach (auditor's source of cost estimate, site value, square foot calculation and for HUD, VA and FHA, the estimated remaining economic life of the property):
Source for Cost Approach: Marshall & Swift Cost Data with local modifiers.

ITEM	SUBJECT	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
179 So. Orchard Drive	124 North Main	83 South 300 East	135 E. Center Street	
Address	North Salt Lake City	North Salt Lake	North Salt Lake City	North Salt Lake City
Proximity to Subject	0.39 miles	0.45 miles	0.30 miles	
Sales Price	N/A	\$ 120,000	\$ 145,400	\$ 137,920
Price/Gross Liv. Area	0.00 @ \$	147.78 @	138.48 @	84.42 @
Date and/or Verification Source	MLS Closed #377651 Coldwell Banker	MLS Closed #364064 Coldwell Banker	MLS Closed #347643 Jones & Associates	
VALUE ADJUSTMENTS	DESCRIPTION	+/- \$ Adjusted	DESCRIPTION	+/- \$ Adjusted
Sales or Financing Concessions	Conventional No concess.		FHA loan No concess.	FHA loan \$3,000 concess. -3,000
Date of Sale/Time	06/12/03 DOM 36		07/23/03 DOM 95	07/10/03 DOM 98
Location	Busy Street		Average -5,000	Busy Street
Leasehold Fee Simple	Fee Simple		Fee Simple	Fee Simple
Site	0.25 ac.	0.18 ac. 2,500	0.21 ac.	0.30 ac. 0
View	Average		Average	Average
Design and Appeal	Rambler		Rambler	Rambler
Quality of Construction	Brick		Aluminum 0 Brick	Frame 0
Age	41 Yrs.	54 Yrs.	0 38 Yrs.	78 Yrs. 6,000
Condition	Fair	Good -20,000	Good -20,000	Average -10,000
Above Grade				
Room Count	20 5 2 2.00 4 2 1.00	2,000	1,000	1,000
Gross Living Area	1,375 Sq.Ft.	812 Sq.Ft. 11,300	1,060 Sq.Ft. 6,500	1,610 Sq.Ft. -4,700
Basement & Finished Rooms Below Grade	900 Sq.Ft. 75% Finished	812 Sq.Ft. 95% Finished -600	1050 Sq.Ft. 100% Finished -1,900	842 Sq.Ft. 85% Finished 600
Functional Utility	Fair	Average -8,000	Average -5,000	Average -5,000
Heating/Cooling	Gas FWA C/Air	Gas FWA C/Air	Gas FWA Evap. 1,000	Gas FWA C/Air
Energy Efficient Items				
Garage/Carport	2-Car Garage	On site parking 5,000	2-Carport 2,000	2-Garage
Porch, Patio, Deck, Fireplace(s), etc.	Porches Wood Stove	Porches 1 Fireplace 0	Porches 2 Fireplaces -1,000	Porches None 1,000
Fence, Pool, etc.				
Net Adj. (total)		\$ 5,700	\$ 24,200	\$ 14,800
Adjusted Sales Price of Comparable		\$ 114,300	\$ 121,200	\$ 121,120

Comments on Sales Comparison (including the subject property's comparability to the neighborhood, etc.): Sales one and two have been given most consideration. All three sales are in the same market area as the subject and are in comparable locations. Sale four is an older sale but was used in this report because it was in fair condition at the time of sale and, like the subject, had considerable deferred maintenance. Days on market for each sale are listed on the 'Date of Sale/Time' grid line. Days on market is the number of days from list date to contract date. Sales one and two were adjusted \$20,000 for condition because the subject has considerable deferred maintenance.

ITEM	SUBJECT	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Date, Price and Date Source for prior sale within year of appraisal	Pub. records show no prior sale in the past 3 years.	No other sales in past year per county records	No other sales in past year per county records	No other sales in past year per county records

Analysis of any current agreement of sale, option, or listing of the subject property and analysis of any prior sales of subject and comparables within one year of the date of appraisal:
See Attached Addendum.

INDICATED VALUE BY SALES COMPARISON APPROACH = \$ 117,900

INDICATED VALUE BY INCOME APPROACH (if Applicable) Estimated Market Rent \$ N/A / No. x Gross Rent Multiplier N/A = \$ N/A

This appraisal is made "as is" subject to the repairs, alterations, inspections or conditions listed below subject to completion per plans and specifications.

Conditions of Appraisal: This report is intended for use only by Cardel Asset Management, Inc. for foreclosure and lending purposes and is not intended for use by any other party or for any other purpose.

Final Recordation: Sales comparison analysis is given most consideration, reflecting typical buyer motivation. Subject is located in an area of primarily owner-occupied single family dwellings and the income approach is not considered meaningful. For this reason, the income approach to value was not used in this report. In my opinion, the most likely buyer for this house will be an investor.

The purpose of this appraisal is to estimate the market value of the real property that is the subject of this report, based on the above conditions and the certification, contingent and limiting conditions, and market value definition that are stated in the attached Freddie Mac Form 438/Fannie Mae Form 1004R (Revised 08/1993).

I (WE) ESTIMATE THE MARKET VALUE, AS DEFINED, OF THE REAL PROPERTY THAT IS THE SUBJECT OF THIS REPORT, AS OF 11/18/2003 (WHICH IS THE DATE OF INSPECTION AND THE EFFECTIVE DATE OF THIS REPORT) TO BE \$ 117,800

APPRAISER:
Signature: Blake Ingram, SRA
Name: Blake Ingram, SRA
Date Report Signed: 11/21/2003
State Certification #: CR37576
State: UT
Or State License #

SUPERVISORY APPRAISER (ONLY IF REQUIRED):
Signature: _____
Name: _____
Date Report Signed: _____
State Certification #: _____
State: _____
Or State License #: _____

Inspector: Property Did Did Not

Freddie Mac Form 1004 6-00

PAGE 2 OF 3
Blake Ingram & Associates

Variance Request

In re: 179 S Orchard Dr., North Salt Lake, UT

Date of Request: 10/13/2014

Page 6 of 8

Current Condition of Garage roof:



Variance Request

In re: 179 S Orchard Dr., North Salt Lake, UT

Date of Request: 10/13/2014

Page 7 of 8

Views of Garage from Orchard Dr.

The garage is recessed from the street and only visible from one side of the property.



View approaching from the south. (Photo from 2007)



Variance Request

In re: 179 S Orchard Dr., North Salt Lake, UT

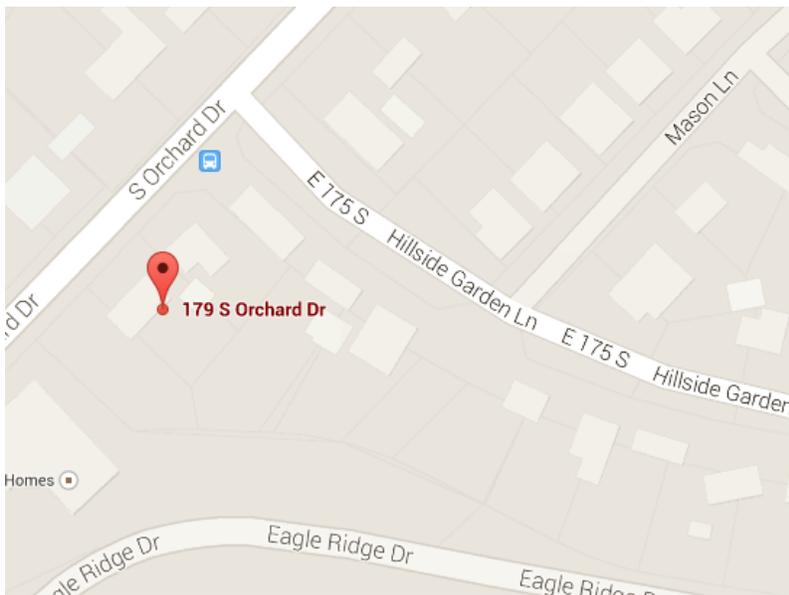
Date of Request: 10/13/2014

Page 8 of 8

View from the bottom of the driveway.



Map of the neighborhood showing detached buildings. None are similarly situated, however, there are detached garages used as living space.



[<< Previous Section \(10-9a-701\)](#)[Next Section \(10-9a-703\) >>](#)[Utah](#)[Code](#)[Title 10](#) Utah Municipal Code[Chapter 9a](#) Municipal Land Use, Development, and Management ActSection
702 Variances.**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.

(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 affects of the variance; or

(b) serve the purpose of the standard or requirement that is waived or modified.

Renumbered and Amended by Chapter 254, 2005 General Session

Download Code Section [Zipped](#) WordPerfect [10_09a070200.ZIP](#) 3,228 Bytes

[<< Previous Section \(10-9a-701\)](#)[Next Section \(10-9a-703\) >>](#)

10-2-2: HEARING OFFICER:

A. Created And Appointment:

1. Pursuant to Utah code 10-9a-701 the city hereby establishes an appeal authority consisting of a hearing officer to:
 - a. Hear and decide requests for variances from the terms of the land use ordinance;
 - b. Hear and decide appeals from decisions applying the land use ordinance;
 - c. Hear and decide appeals from a fee charged in accordance with state code section 10-9a-510.
2. The hearing officer shall be appointed or removed by the mayor with the advice and consent of the city council.

B. Organization And Procedures:

1. All hearings of the hearing officer shall be open to the public.
2. The hearing officer shall keep minutes of its proceedings, and
3. The hearing officer may, but is not required to, have its proceedings contemporaneously transcribed by a court reporter or a tape recorder.
4. The hearing officer shall file its records in the office of the city recorder.
5. All records in the office of the city recorder are public records.
6. Decisions of the hearing officer become effective at the time the decision is filed with the city recorder, unless a different time is designated by the hearing officer.

C. Appeals:

1. The applicant or any other person or entity adversely affected by a decision administering or interpreting a land use ordinance may appeal that decision applying the land use ordinance by alleging that there is error in any order, requirement, decision or determination made by an official in the administration, interpretation or enforcement of the land use ordinance. Any person or any officer, department, board or bureau of the city affected by the grant or refusal of a building permit, or by any other decision of the city's administrative staff in the enforcement and administration of the land use ordinance, may appeal any decision to the hearing officer.
2. All appeals must be filed in writing with the office of the city recorder, within ten (10) calendar days from the date of any written decision is issued by the city or within ten (10)

calendar days from when the person knows or reasonably should know of the decision being appealed, whichever is less.

3. The person or entity making the appeal has the burden of proving that an error has been made.
4. Only decisions applying the land use ordinance may be appealed to the hearing officer. A person may not appeal, and the hearing officer may not consider, any amendments to the land use ordinances.
5. Adversely affected parties that appeal for relief shall be required to present to the hearing officer every theory of relief that it can raise in district court.
6. The standard of review of factual matters for the hearing officer shall be de novo. The hearing officer shall review for correctness a decision of the city's land use authority in its interpretation and application of a land use ordinance.
7. Only those decisions in which the city's land use authority has applied a land use ordinance to a particular application, person, or parcel may be appealed to the hearing officer.
8. Appeals may not be used to waive or modify the terms or requirements of the land use ordinance.

D. Variances:

1. Any person or entity desiring a waiver or modification of the requirements of the 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 hearing officer for a variance from the terms of the land use ordinance.
2. The hearing officer may grant a variance only if:
 - a. 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;
 - b. There are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - 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 land use ordinance is observed and substantial justice done.
3. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under this subsection, the hearing officer may not find an

unreasonable hardship unless:

- a. The alleged hardship is located on or associated with property for which the variance is sought; and
 - b. The alleged hardship comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood;
 - c. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under subsection D2 of this section or this subsection D3, the hearing officer may not find an unreasonable hardship if the hardship is self-imposed or economic.
 - d. In determining whether or not there are special circumstances attached to the property under subsection D2 of this section or this subsection D3, the hearing officer may find that special circumstances exist only if the special circumstances:
 - (1) Relate to the hardship complained of; and
 - (2) Deprive the property of privileges granted to other properties in the same zone.
4. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
 5. Variances run with the land.
 6. The hearing officer and any other body may not grant a use variance.
 7. In granting a variance, the hearing officer 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.
- E. Appeal Of Hearing Officer Decision To District Court: Any person adversely affected by any decision of a hearing officer may petition the district court for a review of the decision within thirty (30) days of said decision. (Ord. 2012-07, 4-30-2012)

10-1-28: MAXIMUM HEIGHT AND FLOOR AREA OF ACCESSORY BUILDINGS:

No building which is accessory to a one-family, two-family, three-family or four-family dwelling shall be erected to a height greater than one story or twenty feet (20'), whichever is lower, nor be higher, nor contain greater square foot floor area than the principal building to which it is accessory. (Ord. 93-5, 7-6-1993, eff. 7-15-1993)

Swimming pool

5
4-3-6. LOCATION OF PRIVATE SWIMMING POOLS AND TENNIS COURTS. A private outside swimming pool or tennis court may be constructed as an accessory use to a main building within the rear yard thereof, provided that it is set back from the side and rear lot lines not less than four (4) feet and not less than thirty (30) feet from any neighbor's dwelling, except on a corner lot where the rear lot line is coterminous with a side lot line of an adjoining lot it shall be located not less than twenty (20) feet from such rear lot line. Provided that it is set back at least twenty (20) feet from any side lot line, a swimming pool or tennis court may be located within the remaining portion of the buildable area of a building lot.

Where a swimming pool is completely enclosed in a building, the location requirements for accessory and main buildings shall apply, as applicable. Where any swimming pool is to be located in the near vicinity of any septic tank or sewage disposal field, the location of the same shall first be approved by the Davis County Board of Health.

6
4-3-7. MAXIMUM COVERAGE AREA OF ACCESSORY BUILDINGS AND STRUCTURES AND USE: No accessory building or structure or group of such buildings or structures, including swimming pools, and no parking space in any residential zone shall cover more than twenty-five (25) percent of the required minimum rear yard space, except that no such buildings may be constructed within a rear yard space reduced as permitted in Section 4-4-6.

7
4-3-8. MAXIMUM HEIGHT OF ACCESSORY USE BUILDINGS: No building which is accessory to a one-family, two-family, three-family, or four-family dwelling shall be erected to a height greater than one story.

8
4-3-9. MAXIMUM HEIGHT LIMITATIONS EXCEPTIONS: (1) No maximum height regulation as stated in this Ordinance, except for stated exceptions, shall apply to prevent the construction of penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building, and fire or parapet walls, skylight, towers, steeples, flagpoles, chimneys, smoke stacks, water tanks, wireless or television masts, theatre lofts, silos, or similar structures above the stated height limits, provided that no space above the height limit shall be allowed for the purpose of providing additional floor space; (2) Notwithstanding any provisions setting forth the maximum heights of structures permitted in any zone, all such height regulations shall be subject to the limitations as stated in Chapter

9
4-3-10. ADDITIONAL HEIGHT ALLOWED: Public and semi-public utility buildings authorized in a zone may be erected to a height not exceeding sixty (60) feet if the building is set back from each otherwise established setback line at least one (1) foot for each additional foot of building height above the normal height limit required for the zone in which the building is erected.

10
4-3-11. MINIMUM HEIGHT OF DWELLINGS. No dwelling shall be erected where more than ten (10) percent of its main floor area is, or will be, below the finished surface grade. No basement houses shall be permitted.