



Project Memorandum

To Laura Oliver, Deputy Recorder
From Shay Stark, Contract City Planner
Date March 28, 2022
CC
Subject Tasker Subdivision - Preliminary Plan

A handwritten signature in blue ink, appearing to read "Shay Stark", is positioned to the right of the "From" line.

An application has been submitted to Elk Ridge City for the Tasker Subdivision (Project). The following is a brief description of the project and some background information to provide clarity as to what ordinances need specific consideration and how these ordinances have been taken into consideration in the staff review:

Project Overview

Zoning: R-1-15,000

Project Total Acreage: 0.5985 acres

Total Number of Single-Family Residential Lots: 2 lots for a gross density of 3.34 dwellings per acre.

Background

The Tasker Subdivision is a division of a single lot located at 125 South Fremont Way. The Lot has an interesting history beginning as two lots (5 and 6 of Block #4) in the Salem Hills Subdivision Plat A and then being combined through the approval of the Bryan Murray Subdivision in 1996. The current proposed subdivision would divide the existing lot back into two lots.

Salem Hills Plat A was approved by the Utah County Commission in 1971. The area has incorporated and currently the subdivision is zoned as R-1-15,000. The history of the Salem Hills Subdivision is very extensive. In 1983 a bank takeover of a pending subdivision phase led to the subsequent parceling of Plat K which had not yet received final approval. This parceling left a large number of properties in the Salem Hills Subdivision that are not legal zoning lots and do not fit the current zoning. Since then some of the larger open space areas were sold by the original developers as lots which again are not legal zoning lots and in some cases don't meet the size requirements of the zone. As this was occurring in the Salem Hills Subdivision other subdivisions to the north of Park Drive were being approved and developed leaving small parcels in between subdivisions that did not quite meet the requirements for the zoning. In 2006 during a development boom the City recognized the problem that had been created by these

illegal zoning lots and put a remedy in the code to try to address the issue. The solution was codified as the following:

10-12-30: ZONE DEVELOPMENT STANDARDS; EXCEPTION:

The planning commission may approve, following a public hearing, a subdivision with a lot that has a width, side setbacks and/or area less than that required by this title, provided the following conditions are met:

- A. The proposed lot width, side setbacks and/or area in the R-1-20,000 and R-1-15,000 zones shall be at least eighty percent (80%) of the minimum lot width, side setbacks and/or area required by these zones or at least the same width, side setbacks and/or area as eighty percent (80%) of the lots within four hundred feet (400') of the property fronting on the same street.*
- B. The proposed subdivision shall contain no more than two (2) lots.*
- C. The proposed subdivision shall meet all other subdivision and zoning ordinance requirements, including front and rear setbacks.*
- D. Any person requesting a subdivision under this exception shall submit a plan showing compliance with the setback, driveway slope and buildable area requirements for the lot that has a width or area less than that required by this title. (Ord. 06-16, 11-14-2006)*

The Exception provides multiple ways that a lot in a subdivision can be approved with the exception. It is recognized that the code states: "a subdivision with a lot that has..." And the proposed subdivision would contain two lots that would need this exception. In all other respects the subdivision meets the requirements and intent of the Zone Development Standards Exception ordinance as follows:

- A. The proposed lot width, side setbacks and/or area in the R-1-20,000 and R-1-15,000 zones shall be at least eighty percent (80%) of the minimum lot width, side setbacks and/or area required by these zones or at least the same width, side setbacks and/or area as eighty percent (80%) of the lots within four hundred feet (400') of the property fronting on the same street.*

Complies (The lots in this subdivision are located in the R-1-15,000 zone and meet the necessary requirements as follows:

R 1—15,000 Zone Requirements	Proposed Lot 1	Proposed Lot 2
Minimum Lot width 100'	107.41'	97'-2"
At least 80% per ordinance 80'	Complies	Complies
Side Setbacks 12'	12'	12'
At least 80% per ordinance 9.6'	Complies	Complies
Area 15,000 sq.ft.	13,597 sq.ft.	12,480 sq.ft.
At least 80% per ordinance 12,000 sq.ft.	Complies	Complies

The proposed lots meet the requirements for being within 80% of the minimum lot width, side setbacks and area of the R-1-15,000 zone. The other option to meet similar width

side setbacks and/or are of at least 80% of the lots within 400 feet of the property fronting on the same street is an or and was not chosen.)

B. The proposed subdivision shall contain no more than two (2) lots.

Complies (The Tasker Subdivision is a two lot subdivision.)

C. The proposed subdivision shall meet all other subdivision and zoning ordinance requirements, including front and rear setbacks.

Complies (When constructed the existing home on Lot 1 met all of the zoning requirements at the time including the 30', front set back and 20' rear setback. It is grandfathered in as it is existing and the setbacks for that lot must remain the same as they were in place at the time the building permit was pulled. Lot 2 is configured to be able to meet all other current subdivision zoning ordinance requirements for the R-1-15,000 zone.)

D. Any person requesting a subdivision under this exception shall submit a plan showing compliance with the setback, driveway slope and buildable area requirements for the lot that has a width or area less than that required by this title.

Complies: (The plan submitted in the application shows details for setbacks and buildable area that show compliance with the requirements of the R-1-15,000 Zone and the Zone Development Standards Exception as well as general Note #6 noting that the Driveways shall not exceed 12%.)

Recommendation

As noted in this memo exceptions would be required to allow this subdivision to move forward as proposed. The City Land Development Code has provided an exception that might cover the necessary exception for this proposal to move forward however, the exception in its opening line mentions the words "a lot" which may be up for interpretation as to the singularity or plurality of its use: *"The planning commission may approve, following a public hearing, a subdivision with a lot that has a width, side setbacks and/or area less than that required by this title, provided the following conditions are met:"*

Does the language in the opening sentence mean that the subdivision may only have one lot that has these characteristic thus limiting the number of lots for which this may apply to within the subdivision? Or is this referring to the specific characteristics of a lot but does not limit the number of lots within the subdivision that have those characteristics?

Item B. in the exception notes that: *"The proposed subdivision shall contain no more than two (2) lots."* Item B. clearly defines the total number of lots that can be in the applicable subdivision. There are many instances in the City code where the word lot is used to explain what requirements are specific to a lot but clearly does not intend that those requirements are only applicable to a single specific lot or limit the number of lots for which those requirements apply.

The language found in this ordinance is a little vague. It does not say "a single lot" however, it also does not say "a lot or lots" or say "lots that have".

State Code Specifically States:

10-9a-306. Land use authority requirements -- Nature of land use decision.

- (1) *A land use authority shall apply the plain language of land use regulations.*
- (2) *If a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application.*
- (3) *A land use decision of a land use authority is an administrative act, even if the land use authority is the legislative body.*

Staff has found that other than the interpretation discussed above, the proposed subdivision meets the requirements of the code with the application of the Zone Development Standards Exception and recommends that upon a favorable discussion that the exceptions be granted, and the Tasker Subdivision be approved.

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