



Staff Report

PLANNING DIVISION
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Salt Lake City Appeals Hearing Officer

From: Chris Lee, chris.lee@slcgov.com, 801.535.7706

Date: March 6, 2019

Re: PLNAPP2018-00763 - Appeal of Enforcement for utilizing Artificial Turf at 845, 853, 856, 857, 860 and 925 East 700 South

Appeal of Administrative Decision

PROPERTY ADDRESS: 845, 853, 856, 857, 860 and 925 East 700 South

PARCEL ID: 16-08-126-018, 16-08-126-019, 16-08-130-004, 16-08-126-020, 16-08-130-005, 16-08-128-006

ORDINANCE SECTION: 21A.48 (Landscaping and Buffers)

APPELLANT: Annie Hildebrandt

INTERPRETATION ISSUE:

Whether artificial turf can be utilized in park strips and front yards.

ZONING ADMINISTRATOR'S DETERMINATION:

The Zoning Administrator finds that artificial turf is not allowed in park strips nor in required landscape yards. Both areas must be landscaped per the specifications of Salt Lake City Zoning Ordinance chapter 21A.48.

APPEAL:

The appellants contend that enforcement actions HAZ2016-02244, HAZ2016-02245, HAZ2016-02246, HAZ2016-02247, HAZ2016-02248, and HAZ2018-00161, requiring removal of artificial turf installed in the front yard and parking strip area of the subject properties are in error because:

- Information stating that artificial turf is not allowed in those areas is in a "hidden ordinance" on an internal Salt Lake City website that is not readily searchable by the public and, consequently, should not be enforced.
- Artificial turf should be allowed in front yards as well as rear yards. To allow it in one yard but not in another seems to negate environmental motives for the restriction.
- Artificial turf has several positive benefits and should therefore be allowed in park strips and required front yards.

PROJECT DESCRIPTION:

The appellant owns the six subject parcels that are located on 700 South and are within the R-2 (Single and Two-Family Residential) and RMF-35 (Moderate Density Multi-Family Residential) zoning districts. Five of the six properties have an enforcement history stretching back to August 15, 2016 when

an email was sent to HAZE (Housing and Zoning Enforcement) by a neighbor with concerns about landscaping that was being installed on the subject parcels consisting of only rocks and artificial turf (see [Attachment E](#) for more detail). Consequently, a file (HAZ2016-02244) was opened and an inspector was assigned to investigate the complaint. The case notes state that the first inspection on 8/17/2016 revealed that only gravel had been utilized and a letter was sent to the applicant about the required landscaping. At a later inspection on October 4, 2016, the inspector discovered that artificial turf had also been installed. The appellant spoke to the inspector that day and informed him that she would seek a special exception to allow it even though he said that was not possible. The enforcement case was reviewed by various inspectors until a hold was placed on the case on 9/26/2018 due to this appeal being filed.

PLANNING DIVISION RESPONSE TO APPEAL:

To assist the Hearing Officer in reviewing the appeal, the planning division has provided the following response to the appellants' claims. In the documents submitted for the petition the appellant provided three major reasons for the appeal (see [Attachment C](#)). Each will be addressed in this section.

Claim 1

The first claim made by the appellants is that, "The ordinance listed in the citation is not searchable via internet, it is only seen on the SLC internal website. Since the general public cannot search and see this ordinance, it shouldn't be enforced."

Response

The Salt Lake City zoning code (code) is widely accessible for use by the general public. The first tab on the home page of the Salt Lake City Planning website (www.slc.gov/planning) is "Zoning". Once you click on it, you can select "Ordinances" and then "Zoning Ordinance" which takes you to Title 21A (zoning) of the Salt Lake City Municipal Code. Besides the city website, however, it is widely accessible by anyone utilizing a standard search engine. When Planning Staff searched Salt Lake City zoning code on Google, it was the first search result.

The code provides easy access to review the standards for the zoning districts where the applicant's properties are located [RMF-35 (21A.24.130) and R-2 (21A.24.110)], the *Landscaping and Buffers* (21A.48) section which governs landscaping matters, and *Definitions* (21A.62). This readily available information clearly specifies the regulation of front yard and parking strip landscaping. Sections of the Code are referenced in the body of this report, but complete sections of the pertinent portions of *Landscaping and Buffers* (21A.48) have been included in [Attachment D](#). Please refer to it for more detail.

Additionally, there are other resources offered by Salt Lake City to provide relevant information to the public. For example, Planning Staff is available to discuss citizen questions in person at the Planning Counter in room 215 of the City & County Building, or via telephone or email.

The code has separate standards for required landscaped yards and park strips. Therefore, this report will consider them separately beginning with landscaped yards.

Landscaped Yards

The subject parcels are located within the RMF-35 (*Moderate Density Multi-Family Residential*) (21A.24.130) and R-2 (*Single- and Two-Family Residential*) (21A.24.110) zoning districts. The RMF-35 zoning district contains the following language in regards to landscaping requirements:

Required Landscape Yards: The front yard, corner side and, for interior multi-family lots, one of the interior side yards shall be maintained as landscape yards.

The *General Provisions* (21A.24.010) section of the Residential Districts chapter of the code also references required landscaping:

Front and Corner Side Yard Landscaping: All required front and corner yards should be maintained as landscape yards. In addition, all uses in residential districts shall comply with the provisions governing landscaping in chapter 21A.48 of this title.

The *Landscape Yards* (21A.48.090) section of the Code referenced in the *General Provisions* contains abundant information about front yard standards:

Landscape yards are yards devoted exclusively to landscaping except, however, that driveways and sidewalks needed to serve the use and buildings on the lot may be located within a required landscape yard. As used in this chapter, the term "landscaping" shall be defined as set forth in section [21A.62.040](#), "Definitions Of Terms", of this title. No specific improvements are required within landscape yards, except that all landscape areas shall be maintained with at least one-third ($\frac{1}{3}$) of the yard(s) area covered by vegetation, which may include trees, shrubs, grasses, annual or perennial plants and vegetable plants. Mulches such as organic mulch, gravel, rocks and boulders shall be a minimum depth of three inches to four inches (3" - 4"), dependent on the material used, to control weeds and erosion in unplanted areas and between plants, and that these aforementioned items at all times cover any installed weed block barriers that cover the ground surface.

These code sections establish that the front yard of the subject property must have a landscape yard. The language contained within them leads to the *Definitions* (21A.62) section of the code for clarification of certain terms. The following definitions are pertinent to this situation:

LANDSCAPE YARD: That portion of a lot required to be maintained in landscape area.

LANDSCAPING: The improvement of a lot, parcel or tract of land with grass, shrubs and trees. Landscaping may include pedestrian walks, flowerbeds, ornamental objects such as fountains, statuary, and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.

VEGETATION: Living plant material including, but not limited to, trees, shrubs, flowers, grasses, herbs and ground cover.

These code sections and definitions make it clear that:

- Landscaping is required in the front yard and fundamentally means to improve a parcel with living "grass, shrubs, and trees". Other items may be included to enhance the effect of the vegetation but not to eliminate it.
- At least 1/3 of the required front yard must be vegetation.
- In unplanted areas between plants, organic mulch, gravel, rocks, and boulders may be used to control weeds and erosion. No other alternatives are listed.

Consequently, artificial turf is not allowed in required landscaped front yards.

Park Strips

The required front yard on the subject parcel is abutted by a large park strip at the front of the parcel. Park strips are regulated by chapter 21A.48.060 (Park Strip Landscaping) of the code. Property owner responsibility is addressed under the *General Landscape Requirements*:

All park strips shall be landscaped by the abutting property owner, in conformance with the provisions of this section. For permits involving new construction of a principal building, the contractor shall be responsible for landscaping the park strips as part of the building permit. In general, this landscaping will involve improving the ground surface of the park strip with plant material, or hard surface treatments where permitted. Park strip trees shall also be provided as required herein.

The *Park Strip Ground Surface Treatment* (21A.48.060.E) section goes on to clarify the regulations even further by stating that:

At least thirty three percent (33%) or more of the park strip surface must be covered with turf, perennial or low growing shrub vegetation within three (3) years of planting or when planting has reached maturity, whichever comes first....

Paving materials, limited to poured concrete, concrete pavers, brick pavers, or natural stone pavers, may be used in portions of a park strip subject to the following limitations:...

In park strips thirty six inches (36") in width or greater, the combination of all paving materials, gravel, rocks, and boulders shall not exceed sixty seven percent (67%) of the total park strip surface area. Poured concrete shall not be used except for carriageways as outlined in subsection E6 of this section.

The definition of *hard surfaced* and *turf* are also located in the *Definitions* (21A.62) section of the zoning code:

HARD SURFACED: A concrete, asphalt surface, brick, stone or turf block.

TURF: Grasses planted as a ground cover that may be mowed and maintained to be used as a lawn area of landscaping. Does not include inorganic substitutes.

Given that the park strip abutting the subject parcel is wider than 36", the combination of all paving materials cannot exceed 67% of the area. Such paving materials are clearly listed in that code section, and artificial turf is not among them.

All of this information is readily available within the SLC zoning code, which is publicly available on-line with a link provided from the Salt Lake City website. The code provides clear parameters when dealing with the landscape requirements of both park strips and front yards within the city. It clearly establishes that:

- The owner of any parcels abutting park strips are responsible for the landscaping and care of said park strips.
- At least 33% of the total area of the park strip, "must be covered with turf, perennial or low growing shrub vegetation".
- Turf is considered to be grasses that are mowed and maintained. Inorganic substitutes are not allowed.
- In the remaining 67% of the park strip area, the only other materials that may be utilized (with restrictions) are "poured concrete, concrete pavers, brick pavers, or natural stone pavers".

Consequently, artificial turf is not allowed in park strips.

Discussion

The language regarding front yards and park strips cited in this section of the staff report is taken directly from the zoning ordinance which is easily found using standard search engines such as Google as well as being readily accessible from the city website. This disproves the contention that, "The ordinance listed in the citation is not searchable via internet, it is only seen on the SLC internal website. Since the general public cannot search and see this ordinance, it shouldn't be enforced." The codified language clearly prohibits the use of artificial turf in both required landscaped front yards and park strips. The code can stand alone to refute this claim, but there are additional resources offered by Salt Lake City to provide relevant information to the public. For example, Planning Staff is available to discuss citizen questions in person at the Planning Counter in room 215 of the City & County Building, or via telephone and email.

Claim 2

The second claim states that, "it is also strange that artificial turf is allowed in your backyard, just not the front yard, according to this hidden ordinance. This would appear to negate an issue with environmental concerns".

Response

The appellant is correct that per the code, artificial turf is not allowed in required front landscaped yards, but is allowed in rear yards. It appears that she has concluded that if Salt Lake City does not allow artificial turf in front yards and park strips for some type of environmental issue, then it should not be allowed in rear yards for the same reasons. However, the code does not state why artificial turf is excluded from front yards and park strips. It is simply excluded without any type of environmental reason given.

Claim 3

In this claim, the appellant states that "The turf we installed has good drainage, saves water, and beautifies the neighborhood. The Boardman's have also filed an appeal, multiple neighbors have said they like the turf, many companies install and we feel it is time for a change to this "hidden" ordinance".

Response

The performance and appearance of artificial turf, as well as the opinions of neighbors, have no impact on whether it can legally be utilized. For the reasons discussed earlier in this report staff believes that artificial turf is not allowed in required landscaped yards or park strips. Therefore, the statements regarding turfs physical qualities are irrelevant to this appeal of the codified language regulating front yard and park strip landscaping.

Summary:

This is an appeal of an administrative interpretation. Therefore, the standard of review for the appeal shall be de novo. The Appeals Hearing Officer shall review the matter appealed anew, based upon applicable procedures and standards for approval, and shall give no deference to the original decision. A public hearing must be held prior to the Appeal Hearing Officer making a decision.

For the reasons stated in the responses, Planning Staff does not believe that the appellants have provided sufficient grounds to successfully appeal this administrative determination in their favor.

NEXT STEPS:

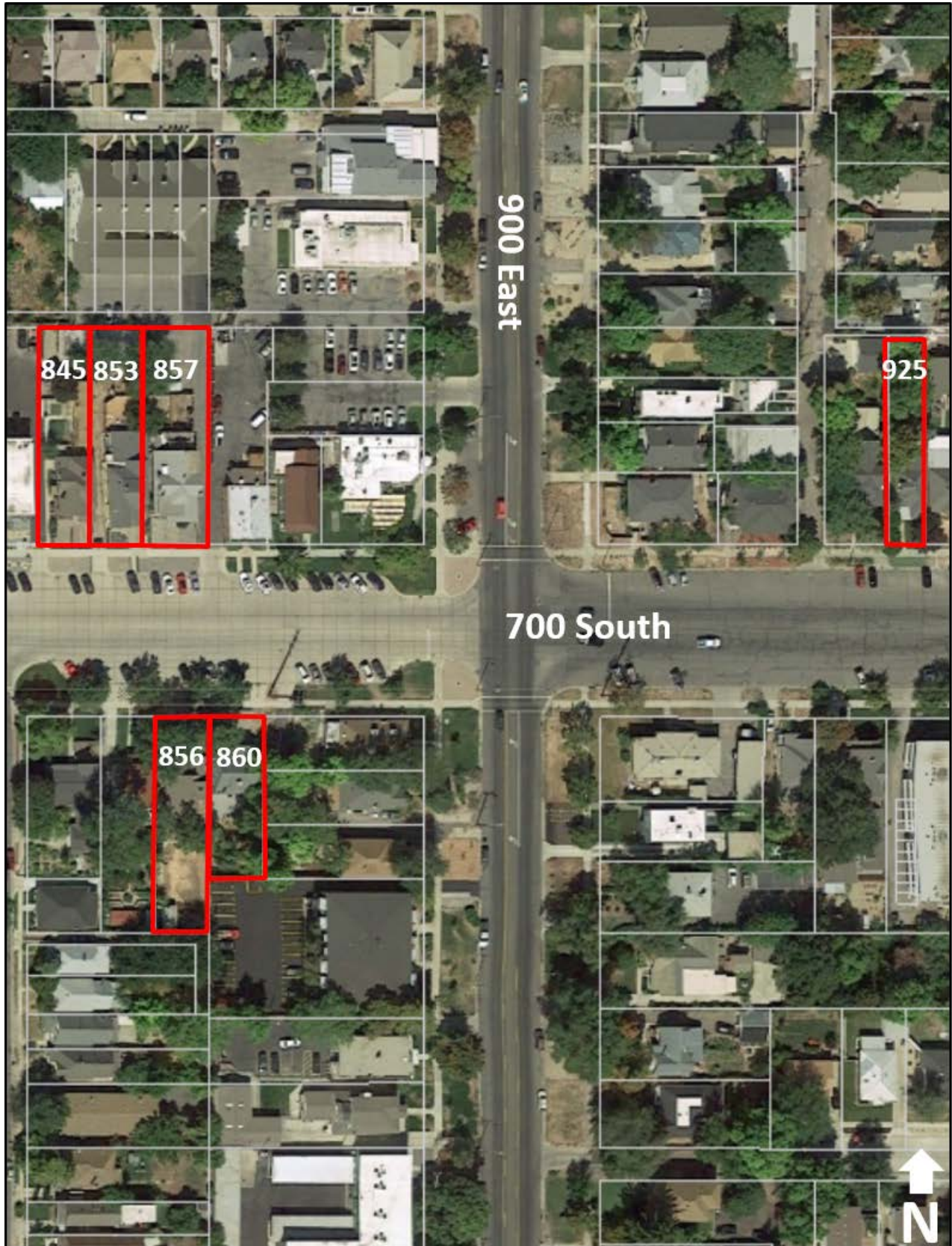
If the administrative determination is upheld, the enforcement decision stands and the artificial turf must be removed. The appellants would have the right to appeal that ruling to Third District Court within 30 days.

If the administrative decision is overturned, the appellants could maintain the artificial turf on the subject parcel as currently installed.

ATTACHMENTS:

- A.** Vicinity Map
- B.** Photos
- C.** Appeal Application
- D.** Applicable Zoning Code Sections
- E.** Inspector Notes
- F.** Public Feedback

ATTACHMENT A: Vicinity Map



 Subject Properties

ATTACHMENT B: Photos



845 East 700 South



845, 853, and 857 East 700 South – Park Strips



853 and 857 East 700 South



853 and 857 East 700 South



856 East 700 South



856 East 700 South - Park Strip Detail



856 and 860 East 700 South



860 East 700 South



925 East 700 South



Artificial Turf - Detail

ATTACHMENT C: Appeal Application



Appeal of a Decision

SALT LAKE CITY PLANNING

OFFICE USE ONLY

Project # Being Appealed: HA22016-02244, 02245, 02246, 02247, 02248 HA22018-00161	Received By: CHRIS EARL	Date Received: 9/21/2018
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Appealed decision made by:

Planning Commission
 Administrative Decision
 Historic Landmark Commission

Appeal will be forwarded to:

Planning Commission
 Appeal Hearing Officer
 Historic Landmark Commission

Project Name:

Artificial Turf

PLEASE PROVIDE THE FOLLOWING INFORMATION

Decision Appealed:

Appeal of zoning interpretation of landscape ordinance

Address of Subject Property:

725, 860, 856, 845, 857, 853 EA 700 So.

Name of Appellant:

Annie Hildebrandt

Phone:

4087612525

Address of Appellant:

140 Summerhill LN. Woodside Ca. 94062

E-mail of Appellant:

anniehildebrandt68@gmail.com

Cell/Fax:

Name of Property Owner (if different from appellant):

E-mail of Property Owner:

Phone:

Appellant's Interest in Subject Property:

Property owner 925e700s, 857e700s, 853e700s, 845e700s, 856e700s, 860e700s

AVAILABLE CONSULTATION

Please call (801) 535-7700 if you have any questions regarding the requirements of this application.

APPEAL PERIODS

An appeal shall be submitted within ten (10) days of the decision.

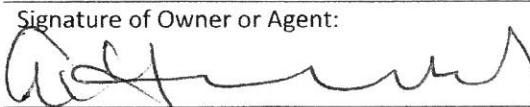
REQUIRED FEE

Filing fee of \$253

Plus additional fee for required public notices. Additional fees for multiple hearings.

SIGNATURE

If applicable, a notarized statement of consent authorizing applicant to act as an agent will be required.

Signature of Owner or Agent: 	Date: 9/20/18
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SUBMITTAL REQUIREMENT

A written description of the alleged error and the reason for this appeal.
I have attached a separate page for this -

WHERE TO FILE THE COMPLETE APPLICATION

<i>Mailing Address:</i> Planning Counter PO Box 145471 Salt Lake City, UT 84114	<i>In Person:</i> Planning Counter 451 South State Street, Room 215 Telephone: (801) 535-7700
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INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

I acknowledge that Salt Lake City requires the items above to be submitted before my application can be processed. I understand that Planning will not accept my application unless all of the following items are included in the submittal package.

Additional Guidelines for Those Appealing a Planning Commission or Landmarks Commission Decision

A person who challenges a decision by the Planning Commission or the Landmarks Commission bears the burden of showing that the decision made by the commission was in error.

The hearing officer, according to state statute, must assume that the decision is correct and only reverse it if it is illegal or not supported by substantial evidence in the record.

“Substantial evidence” means information that is relevant to the decision and credible. Substantial evidence does not include public clamor and emotion. It involves facts and not mere speculation. A witness with particular expertise can provide substantial evidence, but conjecture and public opinion alone are not substantial evidence.

The “record” includes information, including the application by the person seeking approval, the staff report, the minutes of the meeting, and any information submitted to the commission by members of the public, the applicant or others, before the decision was made. It does not include facts or opinion, even expert opinion, expressed after the decision is made or which was not available to the commission at the time the decision was made.

A decision is “illegal” if it is contrary to local ordinance, state statute or case law, or federal law. An applicant is entitled to approval if the application complies with the law, so a person challenging a denial should show that the application complied with the law; a person challenging an approval should show that the application did not conform to the relevant law. Issues of legality are not restricted to the record of the decision, but the facts supporting or opposing the decision are limited to those in the record.

With regard to the factual information and evidence that supports a decision, the person bringing the appeal, according to a long line of decisions handed down by the Utah State Supreme Court and the Court of Appeals, has a burden to “marshal the evidence” and then to demonstrate that the evidence which has been marshaled is not sufficient to support the decision.

The appellant is therefore to:

1. Identify the alleged facts which are the basis for the decision, and any information available to the commission when the decision is made that supports the decision. Spell it out. For example, your statement might begin with: “The following information and evidence may have been relied upon by the Commission to support their decision . . .”
2. Show why that basis, including facts and opinion expressed to the commission is either irrelevant or not credible. Your next statement might begin with: “The information and evidence which may have been relied upon cannot sustain the decision because . . .”

The ordinance listed in the citation is not searchable via internet, it is only seen on the SLC internal website. Since the general public cannot search and see this ordinance, it shouldn't be enforced. It is also strange that artificial turf is allowed in your backyard, just not front yard, according to this hidden ordinance. This would appear to negate any issue with environmental concerns. The turf we installed has good drainage, saves water, and beautifies the neighborhood. The Boardman's have also filed an appeal, multiple neighbors have said they like the turf, many companies install and we feel it is time for a change to this 'hidden' ordinance.

ATTACHMENT D: Applicable Zoning Code Sections

21A.48.010: PURPOSE STATEMENT:

The landscaping and buffering requirements specified in this chapter are intended to foster aesthetically pleasing development which will protect and preserve the appearance, character, health, safety and welfare of the community. These regulations are intended to increase the compatibility of adjacent uses and, in doing so, minimize the harmful impacts of noise, dust and other debris, motor vehicle headlight glare or other artificial light intrusions, and other objectionable activities or impacts conducted or created by an adjoining or nearby use, thereby fostering compatibility among different land uses. These regulations are also intended to preserve, enhance and expand the urban forest and promote the prudent use of water and energy resources. (Ord. 88-95 § 1 (Exh. A), 1995; Ord. 26-95 § 2(24-1), 1995)

21A.48.060: PARK STRIP LANDSCAPING:

- A. Intent: The intent of these requirements is to maintain the appearance of park strips, and expand landscape design flexibility while not unreasonably inhibiting access for repair and maintenance of public utilities, encourage water conservation through the use of water conserving plants and generally to improve environmental conditions along the city's streets. It is also the intent to protect the users of park strips by prohibiting the use of materials that may cause harm or injury to pedestrians or vehicles, and to provide for safe and convenient visual and physical access across park strips to and from vehicles that may park at the curb.
- B. Applicability: The requirements of this section shall apply to all "park strips", as defined in section [21A.62.040](#) of this title, except as otherwise noted.
1. Properties With Curbs And Gutters: These standards apply to all properties in the city, including vacant lots that have street curb and/or gutter. Owners of property on streets that do not have curb and gutter are not required to maintain formal landscaping within the public right of way.
 2. Improvement Districts: These requirements shall not apply to official improvement districts where exceptions to park strip standards are approved pursuant to subsection E of this section.
 3. Discretionary Authority: The zoning administrator may modify the standards of this section to better achieve its intent and address site specific conditions such as, among other things, steep grades between the curb and sidewalk or the presence of canals or drainage channels.
- C. General Landscape Requirements:
1. Property Owner Responsibility: All park strips shall be landscaped by the abutting property owner, in conformance with the provisions of this section. For permits involving new construction of a principal building, the contractor shall be responsible for landscaping the park strips as part of the building permit. In general, this landscaping will involve improving the ground surface of the park strip with plant material, or hard surface treatments where permitted. Park strip trees shall also be provided as required herein.

2. **Maintenance:** All park strip landscaping shall be maintained in a safe and well kept condition by the abutting property owner. Trash, other debris, and noxious weeds shall not be allowed to collect or grow in these areas.
3. **Watering:** Sufficient water shall be provided for vegetative ground cover, annuals, perennials, shrubs and trees to keep them in a healthy condition.
4. **Definition Of An "Operable Irrigation System":** For purposes of this section, "operable irrigation system" shall mean a fixed underground irrigation system connected to the adjacent property's water supply, but does not include a movable hose, sprinkler or other portable watering system.

D. Park Strip Trees:

1. **Spacing And Size:** Park strip trees, when required, shall be provided at the equivalent of at least one tree for each thirty feet (30') of street frontage and may be clustered or spaced linearly as deemed appropriate by the city forester. Tree size shall be a minimum of two inch (2") caliper (measured at a point 6 inches above the soil line) at time of planting.
2. **Tree Grates:** If new trees are proposed in a park strip in which the area surrounding the tree will have an impervious surface, the property owner responsible for installation shall ensure that tree wells with grates are provided which have dimensions adequate to accommodate the recommended tree species. All new installation of tree grates shall be accompanied by an operable irrigation system to ensure adequate water to the tree, and structural soil shall be installed according to Salt Lake City engineering standards.
3. **Permit And Planting:** No tree shall be planted in a park strip without first obtaining a permit from the urban forestry division of the Salt Lake City public services department (section [2.26.210](#) of this code). Tree species and location shall be approved by the city forester.
4. **Tree Maintenance:** Planting and maintenance of trees shall be done in conformance with the Salt Lake City urban forestry standards and specifications which are available and shall be administered and enforced through the urban forestry office. No work (pruning, removal, etc.) shall be performed on street trees without first obtaining a permit from the urban forestry office.

E. Park Strip Ground Surface Treatment: The intent of this section is to provide a palette of allowed plant, organic and/or natural materials that allow for creative landscaping, maintain a healthy street tree canopy, and create an attractive pedestrian environment while encouraging actual, not merely perceptual, water conservation. In many instances, a water wise turf grass/sod remains the most effective park strip plant material.

1. **Plant Coverage:** Live plant materials, not to exceed twenty two inches (22") in height, are allowed. Plants with heights up to thirty six inches (36") tall may be allowed as specimen or accent plants when not located within sight distance areas. These plants may not be planted in a manner that would create a visual barrier between the street and the sidewalk.

At least thirty three percent (33%) or more of the park strip surface must be covered with turf, perennial or low growing shrub vegetation within three (3) years of planting or when planting has reached maturity, whichever comes first. For lots with two (2) or more street frontages, this standard shall be applied separately to each adjacent park strip on each street frontage. In new park strips, or when replacing landscaping in existing park strips, it

is recommended that water conserving plants constitute at least eighty percent (80%) of all plants used.

Plants which have thorns, spines, or other sharp, rigid parts are hazardous to pedestrians and bicyclists, and are difficult to walk across and are generally prohibited except that limited use of thorn bearing flowers, such as roses, may be acceptable subject to the approval of the zoning administrator.

2. **Erosion:** It shall be the property owner's responsibility to ensure that erosion does not deposit soil or other material on sidewalks or in the street. Where annual or perennial plants are planted in the park strip, an organic mulch is required on the park strip during the dormant season to prevent erosion.
3. **Organic Mulch:** Materials such as bark, shredded plant material, and compost, may be used as water conserving mulch for plants and may also be used as the only material in portions of a park strip.
4. **Gravel, Rocks, And Boulders:** Because rock, gravel and other hard surface materials as a ground cover retain and emit heat during the summer months when water is scarce, they may not be used within a thirty six inch (36") radius (72 inch diameter) of any street tree, unless an operable irrigation system is provided. Otherwise, gravel, rocks, and boulders, may be used on portions of the park strip. Organic mulch or gravel, as approved by the city forester, shall be used near existing street trees. Rocks are limited to twenty inches (20") in height. Boulders as an accent material are limited to thirty six inches (36") in height, and may not be arranged in a manner that creates a continuous visual obstruction.

Any rock raised above the curb height shall be set back from the curb by at least twenty four inches (24").

Large diameter rocks (over 6 inches) or boulders shall be kept a minimum of twenty four inches (24") away from street trees.

Any material placed beneath gravel, rocks or boulders designed to block weed growth must be of a porous nature, allowing water to percolate to plant root systems.

5. **Paving Materials:** Paving materials, limited to poured concrete, concrete pavers, brick pavers, or natural stone pavers, may be used in portions of a park strip subject to the following limitations:
 - a. **Paving Materials Near Existing Street Trees:** Poured concrete shall not be placed in any park strip with existing street trees unless the park strip is being improved as part of an improvement district or pedestrian traffic counts warrant (as determined by Salt Lake City transportation and engineering divisions) and tree grates and an operable irrigation system is being installed, except as otherwise noted. Organic mulch or gravel, as approved by the city forester, shall be used near existing street trees. Poured concrete or rocks/gravel may not be used in any park strip unless an operable irrigation system is provided to the street trees.
 - b. **Twenty Four Inch Wide Park Strips:** Except as specified in subsection E5a of this section, any allowed paving material listed in this section may be used in a park strip that is twenty four inches (24") or less in width. If poured concrete is used, it shall be finished with a stamped pattern resembling brick or natural stone or scored with another decorative pattern to distinguish it from the adjacent sidewalk.

- c. **Less Than Thirty Six Inch Wide Park Strips:** In park strips that are less than thirty six inches (36") in width, brick pavers, concrete pavers, or natural stone pavers may be used. Poured concrete shall not be used except for carriageways as outlined in subsection E6 of this section. The use of plants in combination with paving materials is encouraged.
 - d. **Park Strips Thirty Six Inches Wide Or Greater:** In park strips thirty six inches (36") in width or greater, the combination of all paving materials, gravel, rocks, and boulders shall not exceed sixty seven percent (67%) of the total park strip surface area. Poured concrete shall not be used except for carriageways as outlined in subsection E6 of this section.
6. **Carriageways:** In order to provide for safe and convenient access across park strips to and from vehicles that may park at the curb, carriageways (walkways between the curb and sidewalk) through planted area are encouraged. The material of carriageways may be poured concrete, concrete pavers, brick pavers, or flat, natural stone paving materials such as flagstone or a combination of these materials. If poured concrete is used, the carriageway shall be not more than four feet (4') in width and shall be located so as to provide the most direct route from the curb to the sidewalk. The area of carriageways shall be included in calculating the percentage of inorganic material in the park strip.
7. **Retaining Walls, Fences And Other Similar Structural Encroachments:** Retaining walls, fences, steps, raised planter boxes and other similar structural encroachments in park strips are only permitted when specifically approved by the engineering department pursuant to adopted standards and/or recognized engineering principles, and by:
- a. The historic landmark commission if the proposed structure is located within the H historic preservation overlay district;
 - b. The planning commission if the proposed structure is part of a development proposal that requires planning commission approval;
 - c. The planning director or the planning director's designee if the proposed structure is not within an H historic preservation overlay district and not part of a development proposal that requires planning commission approval; or
 - d. The city council if the proposed structure is part of an adopted improvement district.

Structural encroachments in park strips are generally limited because they may block access from the street to the sidewalks and create obstructions to, and increase the cost of performing maintenance of public improvements and utilities within the park strip. Structural encroachments are not permitted unless the relevant decision making entities identified in this section find that:

- a. The proposed structures will serve the general public and are part of general public need, or
- b. The proposed structures are necessary for the functional use of the adjacent property (such as a mailbox near the curb, steps or a retaining wall on a sloping site, fence behind the sidewalk, etc.), and
- c. There are no other practical locations for the structure on the adjacent private property.

Any raised structure or retaining wall shall be set back from the curb by at least twenty four inches (24").

This subsection E7 does not apply to outdoor dining that is subject to section [21A.40.065](#) of this title or ground mounted utility boxes governed by section [21A.40.160](#) of this title.

8. **Plants And Objects Within Sight Distance Areas:** Because of safety and visibility issues related to both pedestrians and automobile drivers, tall objects are not allowed in sight distance triangle areas. Except for street trees, or mailboxes, no plant, boulder, monument, structure or other object which is over twenty two inches (22") in height shall be planted or located within sight distance areas.
9. **Turf And Gravel On Steep Park Strips:** Turf and gravel are not permitted in park strips with a slope greater than three to one (3:1) (3 feet horizontal distance to 1 foot vertical distance). Turf is difficult to mow on steep slopes and gravel will migrate down the slope and collect in the gutter. Larger rocks (a diameter greater than 6 inches) or boulders used on steep park strips shall be buried in the ground to a depth equal to at least one-third ($\frac{1}{3}$) of the rock or boulder's average dimension in order to anchor them into the slope.
10. **Exceptions To Park Strip Standards:** Exceptions to the park strip policies established herein shall be limited to the following:
 - a. **Improvement District:** Variations from these standards may be approved as part of improvement districts. Areas where alternative park strip materials could be considered include identifiable nonresidential areas. The improvement district concept is not intended to respond to one or two (2) properties but an identifiable district. The improvement district concept is not generally applicable to residential areas where a predominant design theme consisting of vegetation has been established.
 - b. **Nonconforming Provision:** All vegetation located in park strips prior to November 5, 1992, may be maintained subject to city transportation division approval for sight distance and public way safety requirements.
 - c. **Bus Stop Benches And Shelters, And Bike Share Stations:** Concrete pads for bus stop benches and/or shelters and bike share stations are permitted with zoning administrator approval and subject to all permitting requirements. Concrete used for this purpose shall not be included in calculating the percentage of inorganic material in the park strip.
 - d. **Outdoor Dining:** Park strip materials may be modified by the zoning administrator when outdoor dining is approved pursuant to section [21A.40.065](#) of this title. (Ord. 16-16, 2016)

21A.48.090: LANDSCAPE YARDS:

Landscape yards are yards devoted exclusively to landscaping except, however, that driveways and sidewalks needed to serve the use and buildings on the lot may be located within a required landscape yard. As used in this chapter, the term "landscaping" shall be defined as set forth in section [21A.62.040](#), "Definitions Of Terms", of this title. No specific improvements are required within landscape yards, except that all landscape areas shall be maintained with at least one-third ($\frac{1}{3}$) of the yard(s) area covered by vegetation, which may include trees, shrubs, grasses, annual or perennial plants and vegetable plants. Mulches such as organic mulch, gravel, rocks and boulders

shall be a minimum depth of three inches to four inches (3" - 4"), dependent on the material used, to control weeds and erosion in unplanted areas and between plants, and that these aforementioned items at all times cover any installed weed block barriers that cover the ground surface.

- A. **Bond Requirement:** All developers and/or contractors shall be required to post a bond with the City for the total amount of the landscaping contract for all multi-family dwellings and commercial development. (Ord. 16-16, 2016)

ATTACHMENT E: Inspector Notes (HAZ2016-02244)

Request Comment (8/15/2016) - My concern is about houses at 845, 853, 867, 860 and 864 South 700 East. Several weeks ago, the front yards on all but 853 were torn up and grass in the parking strip and front lawn area was replaced with fine tamped gravel. The house at 853 had similar work done last year and after the tamped gravel was installed, astro turf was laid to replace the front lawn. I believe that the houses are all owned by the same landlord and am concerned that the next step will be to install Astro Turf. Thanks for listening to my concerns.

Result Comment (8/17/2016) – Upon inspection, I found that the front yard and park strip was just packed gravel. There was no vegetation in either. I will send a 14-day warning letter.

Result Comment (8/23/2016) – Talked to Annie, owner. She said that they are working with a landscaper to have the property landscaped. She said that it is scheduled to be done by Sept. 15.

Result Comment (9/16/2016) - Talked to Annie, the owner. She said their landscaper got delayed and he promised to have the work done by October 1st. I will re-inspect then.

Request Comment (9/20/2016) - Issue a N&O if the violation[s] have not been corrected: 1/3 vegetation in the front yard and park strip.

Result Comment (10/4/2016) – Upon inspection, I found that artificial turf has been installed. I talked to Annie and she said that she was unaware that this was not allowed. She is going to talk to Planning to see if she can get a special exception. I told her that the chances are slim that she would be able to get one, but she wants to try anyways because she spent a lot of money to install it. I will hold off on enforcement until Planning has made a decision.

Result Comment (8/30/2017) – I talked to Annie's Maintenance guy and he said that he should have the landscaping done by Friday, Sept. 8th.

Request Comment (1/12/2018) - Follow up to mailed zone 1 letter. Started enforcement on artificial turf over again.

Result Comment (1/31/2018) – spoke with Monique Flesher. I asked her to have the owner provide an email stating that she has power to make decisions on behalf of the properties.

Request Comment (1/31/2018) - Did the owners of all the properties get back with you giving Monique Flesher POA

Result Comment (2/08/2018) - I have not heard from the owners of the property regarding whether Monique Flesher can act on their behalf.

Request Comment (5/24/2018) - Follow up inspection on artificial turf and illegal units

Result Comment (5/24/2018) – Spoke to front tenant, Robyn. She confirmed the front house is being used as two units. Second unit is upstairs and access is from west side of house. Front house has two electric meters, rear house has one. Will mail out initial warning letter for illegal units and artificial turf.

Result Comment (6/19/2018) – Sending warning letter for artificial turf and access dwelling units in single family home

Request Comment (7/17/2018) - Follow up on artificial turf and illegal dwelling units.

Result Comment (7/18/2018) – Turf still remains...

Request Comment (8/1/2018) - Follow up to see if turf still remains

Result Comment (8/15/2018) – Turf still remains. Will follow up in one month.

Request Comment (8/23/2018) - Follow up

Result Comment (9/18/2018) – Turf has been pulled up an owner is going to appeal

Result Comment (9/26/2018) – Case will be placed on a temporary hold as the owner has filed an official appeal with the Zoning department. Will follow up in one months time... Please reference for appeal case. PLNAPP2018-00763 - Artificial Turf

ATTACHMENT F: Public Feedback

Signs were posted in front of each subject parcel and notices were mailed to all neighbors within 300 feet on 2/28/2019. The following email was received from a neighbor due to those notices:

To Chris Lee.

I'm unable to attend this meeting but would like this to be read into the record during the meeting.

I live within the neighborhood and I'm very familiar with the all of these properties using artificial turf. I agree that this carpet has not been properly been installed and staked down for safety but, I see absolutely no reason why artificial turf isn't allowed in the ordinance.

I would much prefer to see fake grass if it's maintained and installed properly rather than many properties in area that do absolutely no maintenance on the parking strip or have installed bark chips which, in a hard rain flows off their property down into the gutter and backs up onto properties as far down as five houses. When I personally met with my former councilperson and City's Planning and Zoning they said yes this could be a problem but it's not correctable. Basically live with it rather than requiring a solution.

I've enclosed a picture taken last year which took me 6 months and multiple phone calls to the city to require the landlord to cleaned up his property and follow the city's weed ordinance. So yes, I would prefer to see fake grass rather than weeds and unkept properties.

One last thing, Ms. Hildebrandt should dig out the small tree trunks on the southwest corner next to the sidewalk at 925 E 700 South as it has encroaches on the sidewalk in the past few years.

Thank You

Mark Bunce

753 South 900 East.

