



Staff Report

PLANNING DIVISION
COMMUNITY & NEIGHBORHOODS

To: Salt Lake City Planning Commission

From: Chris Lee, chris.lee@slcgov.com, 801-535-7706

Date: June 28, 2017

Re: PLNPCM2017-00404 – Appeal of Special Exception Approval at 1373 E Arlington Drive

Appeal of Administrative Special Exception

PROPERTY ADDRESS: 1373 E Arlington Drive

PARCEL ID: 09-33-327-010

ZONING DISTRICT/ORDINANCE SECTION: 21A.24.060: R-1/7,000 Single Family Residential Zoning District; 21A.52: Special Exceptions

REQUEST:

This is a request for an in-line addition special exception at 1373 E. Arlington Dr. The addition is to the rear of an existing single-family dwelling. The existing home does not meet current side yard setback requirements and the proposed addition will be constructed so that it extends less into the side yard setbacks.

Planning Staff Administratively approved the Special Exception on May 19, 2017. Julie Bleyer-White and P Michael White, owners of the property directly west of the subject property are appealing the administrative approval of the special exception. The Planning Commission must review the original request, based upon applicable procedures and standards for approval of a special exception for an inline addition, and cannot give any deference to the original decision. A public hearing must be held prior to the planning commission making a decision.

RECOMMENDATION:

Based on the findings listed in the staff report along with those in the findings and order document, planning staff recommends that the Planning Commission approve the special exception for an inline addition to the rear of the home at 1373 E. Arlington Drive.

ATTACHMENTS:

- A. [Vicinity Map](#)
- B. [Site Plan](#)
- C. [Site Photographs](#)
- D. [Zoning Standards Analysis](#)
- E. [Special Exception Application](#)
- F. [Appeal Application](#)
- G. [Administrative Approval Findings and Order](#)
- H. [Public Process and Comments](#)

PROJECT DESCRIPTION:

The property owner of 1373 E Arlington Drive is seeking to expand the existing single family dwelling on the parcel through front and rear additions. The proposed additions to the front of the structure comply with required side yard setbacks of 6 feet on one side and 10 feet on the other within the R-1/7000 (Single Family Residential) zoning district. However, due to the irregular shape of the parcel, that is not the case for the rear addition. As seen on the site plan (Attachment B), the distance between the side yards decreases as you move further north. The rear of the existing building is 4 feet from the property line on the west side and 8 feet 9 1/2 inches on the east. The addition will extend into the rear yard 13 feet 6 inches from the existing exterior wall but it is designed to step back from the existing exterior walls and will actually be more complying than the existing structure with the distance from the side property lines being 4 feet 3 inches to the west and 9 feet 2 1/2 inches to the east. Although the proposed addition would extend into the required side yard setbacks to a lesser degree than the existing structure, it still would not meet the setbacks on either side at the rear of the house. Consequently, the owner applied for a special exception to allow for an inline addition which was approved administratively. The adjacent property owners however, believe that was an erroneous determination and have filed this appeal.

The proposed rear addition has an architectural style in keeping with the existing structure and other houses in the neighborhood. It will be within the height requirements of the R-1/7,000 zone (28 feet measured to the ridge of the roof) and does not create any new non-compliance. Additionally, due to the addition being set back from the existing side walls of the house, it will most likely not be visible from the street.

The special exception in-line addition process was developed to allow for additions to existing structures that do not comply with current building setback requirements. The addition must follow the existing building line, meaning that the addition cannot be located closer to a property line than the existing structure. General standards for special exceptions are found in section 21A.52.060 of the Salt Lake City zoning code and those specifically for inline additions are in 21A.52.030(15). They are discussed in depth in Attachment D.

KEY ISSUES OF THE SPECIAL EXCEPTION:

The key issues listed below have been identified through analysis of the project, and public input. The first items are specifically related to the special exception application while those that directly pertain to the appeal application are found

Issue 1: Elevation to a Planning Commission Hearing

Section 21A.52.120(A) of the Salt Lake City zoning code states that:

Any party aggrieved by a decision of the planning director may appeal the decision to the planning commission pursuant to the provisions in chapter 21A.16 of this title.

Chapter 21A.16, *Appeals of Administrative Decisions*, specifies what parties are eligible to appeal, the procedure to do so, and other details about the process. The appellant met the appeal standards and consequently, this application has been elevated to the Planning Commission for a public hearing. As stated previously, this is an appeal of an administration decision of a special exception. Therefore, the standard of review for the appeal shall be 'de novo'. The Planning Commission shall review the matter appealed anew, based upon applicable procedures and standards for approval of a special exception for an inline addition, and shall give no deference to the original decision. A public hearing must be held prior to the Planning Commission making a decision.

Issue 2: Potential Impacts to Trees

All three neighbors directly adjacent to the subject property responded with letters of concern (see Addendum E) after the notice of application was sent out on May 5, 2017. Each of the letters reference trees with two of them focusing on potential impacts to trees as the central issue. Based on the letters, it appears that there have been ongoing conflicts with the owner of the subject properties and his neighbors regarding trees that have been removed and potential impacts to trees on other parcels. It was also stated that the applicant illegally removed a tree on a parcel not owned by him and that there was a resultant legal action.

One tree in particular, which straddles the west property line of the subject property was of particular concern and at the heart of the appeal which was filed subsequent to the administrative approval of the special exception. The neighbor which shares that property line is of the opinion that the tree could be damaged or substantially negatively impacted by the construction of the proposed rear addition.

This special exception cannot deal with past issues between neighbors and slights that may have occurred. It also cannot take into account civil issues that may be existing and possibly ongoing with neighbors unless such matters specifically fall under the standards of review. With that being said, planning staff is of the opinion that standard 21A.52.060(E) is crucial to consider within this context. It states that:

The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance.

Neither “significant” nor “importance” is defined in the Salt Lake City zoning ordinance so those definitions were sought from the online version of the *Merriam-Webster* dictionary:

Definition of *significant*

1 : having meaning; *especially* : [suggestive](#) a significant glance
2a : having or likely to have [influence](#) or effect : [important](#) a significant piece of legislation; *also* : of a noticeably or measurably large amount a significant number of layoffs producing significant profits

Definition of *importance*

1a : the quality or state of being [important](#) : [consequence](#)
b : an important aspect or bearing : [significance](#)

Given those definitions, it was determined that while there may be damage to a natural feature (the tree straddling the property line) there is no evidence that would qualify it as being of “significant importance” when judged against other trees. The tree in question is a common yard tree that is not rare, threatened, or especially unique. No evidence has been presented that establishes it as being of “significant importance”.

Issue 3: Fire Safety

One letter stated that safety was an issue. The concern stems from the feeling that the proposed addition to the rear of the house, along with a recently constructed garage in the rear yard, could potentially make it difficult to fight a fire in the area.

Building permits are reviewed to verify that they meet fire code before being issued. If there were any issues with the already constructed garage, they would have been addressed previously. Similarly, any addition to the primary structure would also be reviewed and need to comply with fire code specifications. Additionally, the driveway provides direct access to both the garage and the proposed addition that fire fighters could utilize if necessary.

Issue 4: Design and Privacy

A concern was raised that the proposed addition would not meet the design standards of the neighborhood. Additionally, it was stated that an addition could also deteriorate privacy of neighbors. Much of the argument focused on the already existing garage and the feeling that it is too big, too close to property lines, and is more reminiscent of a “new Sandy subdivision and not a Federal Heights Neighborhood”.

Permits for the already approved and constructed garage were obtained without going through a planning process because it met the standards for an accessory building in the R-1/7,000 zoning district. Consequently, it does not pertain to this discussion. In regards to the design of the proposed addition, standard 21A.52.030(C) needs to be met:

Compatible with Surrounding Development: The proposed special exception will be constructed, arranged and operated so as to be compatible with the use and development of neighboring property in accordance with the applicable district regulations.

Staff believes that the addition is a legitimate architectural addition that will be compatible with the existing structure. Submitted elevation drawings illustrate that it will complement the existing design and will be fully integrated into the design of the house. Although, the applicant has submitted plans which show an addition to the front of the house as well, this special exception review only applies to the rear addition due to the front addition meeting all of the underlying specifications of the R-1/7000 zoning district.

Issue 5: Additional Dwelling Unit

A neighbor feels that this addition could be meant to accommodate the creation of another unit on the site, but Staff can find nothing to support this position. The planned additions serve mostly to expand existing kitchen and common living areas, not to create a totally separate second unit. Additionally, the R-1/7,000 zoning district does not allow for two units on a parcel.

KEY ISSUES OF THE APPEAL:

To assist the Planning Commission in reviewing this request, the planning division has provided the following claims from the appellant along with responses to each claim. The claims are distilled from the application submitted by the appellant or are direct quotes. The entire appeal application can be reviewed in Attachment F.

Claim 1: Planning staff ignored and/or disregarded information and statements provided by the appellant and other neighbors. Specifically, the planner that reviewed the special exception application did not gather sufficient facts about the tree at the center of this appeal and potential impacts of the construction of the proposed inline addition to the adjacent property owner rights of 1363 E Arlington Drive.

Staff Response: All information and statements provided by neighbors was carefully considered when reviewing the standards. Also, in addition to the information provided by abutting property owners, research was also done regarding the subject tree. Ultimately, planning staff can only consider the applicable standards when reviewing an application. This claim seems to most directly correlate to that found in section 21A.52.060(B) which states the following:

No Substantial Impairment of Property Value: The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located.

When reviewing against this standard for the special exception, it was determined that:

This proposed addition should not have a negative impact on property value within the neighborhood. The improvements may serve to enhance the character of the structure. Only a small percentage of the proposed addition is located in the setback and there should be no significant difference if the applicant had opted to stay completely within the setback line. Therefore, there is no evidence of a substantial impairment of property value. (see standard B in Attachment D)

The appellant is of the opinion that planning staff did not sufficiently consider the linden tree when making this determination. However, that is not the case. After extensive consideration and research, it was determined that it is not an absolute that the tree will die if the addition were approved, and even if it did that would not rise to the level to “substantially diminish or impair the value of the property within the neighborhood in which it is located”. For example, it is unlikely that if the tree were to die and be removed, that it would diminish the value of the appellant’s parcel if it were to be offered for sale.

Claim 2: This claim is best considered directly in the words of the appellant:

Owners of 1363 E Arlington have ownership right to the Linden Tree that sits also on their property. Evidence supports that the tree will be damaged with current plans in place damaged, and monetary hardship would be caused by non pre-existing conditions, if PLNPCM2017-00321 is approved with rear addition plans in place. We are seeking judgement to ensure we are not negatively effected with monetary burdens, that our property ownership rights our recognized to preserve the tree in concern, and no activity begin or be approved until resolved civilly.

Staff Response: This claim is closely related to claim 1 in that it seems to focus on potential diminishment of property value. In this case, the argument is specifically made that, “Evidence supports that the tree will be damaged with current plans in place...and monetary hardship would be caused”. This argument is specifically focused on the value of the tree; however, there is no evidence that losing the tree would impair the overall property value

The appellant focuses extensively on the value of the tree itself in a way that seems to indicate a civil matter between neighbors. In fact, the appellant requests that “no activity begin or be approved until resolved civilly”. Many arguments throughout the appeal application seem to be focused more on civil issues rather than the standards of the zoning code and neither the Salt Lake City planning division nor any appeals body connected to such, can address them. This is simply the wrong venue to pursue civil judgments.

With that being said, planning staff is of the opinion that it is crucial to address standard 21A.52.060(E) which reads:

No Destruction Of Significant Features: The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance.

This standard was weighed most heavily when considering the special exception. Staff’s analysis of this standard is as follows (see Standard E in Attachment D):

No scenic or historic features of significant importance will be destroyed, lost or damaged through this proposed addition. There has been concern raised by neighbors that trees may be in danger of being removed or dying off later if the proposed addition is allowed. The applicant has stated that it is his intention to

keep all trees if possible. However, even if trees are lost, Planning Staff does not consider that to qualify under this standard.

It should be noted that the administrative approval was carefully considered. Neither “significant” nor “importance” is defined in the Salt Lake City zoning ordinance so those definitions were sought from the online version of the *Merriam-Webster* dictionary:

Definition of *significant*

1 : having meaning; *especially* : [suggestive](#) a significant glance

2a : having or likely to have [influence](#) or effect : [important](#) a significant piece of legislation; *also* : of a noticeably or measurably large amount a significant number of layoffs producing significant profits

Definition of *importance*

1a : the quality or state of being [important](#) : [consequence](#)

b : an important aspect or bearing : [significance](#)

Given those definitions, it was determined that while there may be damage to a natural feature (the linden tree), there is no evidence that would qualify it as being of “significant importance” when judged against other trees. The tree in question is a common yard tree that is not rare, threatened, or especially unique. No evidence has been presented that would make it rise to the level of “significant importance”. The appellant has presented nothing that would distinguish it in such a way but simply addresses the potential financial loss if the tree were negatively affected by the construction of the proposed rear addition.

DISCUSSION:

Planning Staff is of the opinion that the proposal complies with the standards of approval for an in-line addition special exception. The standards have been addressed in Attachment D.

NEXT STEPS:

If the administrative decision is upheld, the inline addition to the house at 1373 E Arlington Drive can proceed as long as the applicant meets all other provisions of the R-1/7,000 (21A.24.070) zoning district and secures all required building permits.

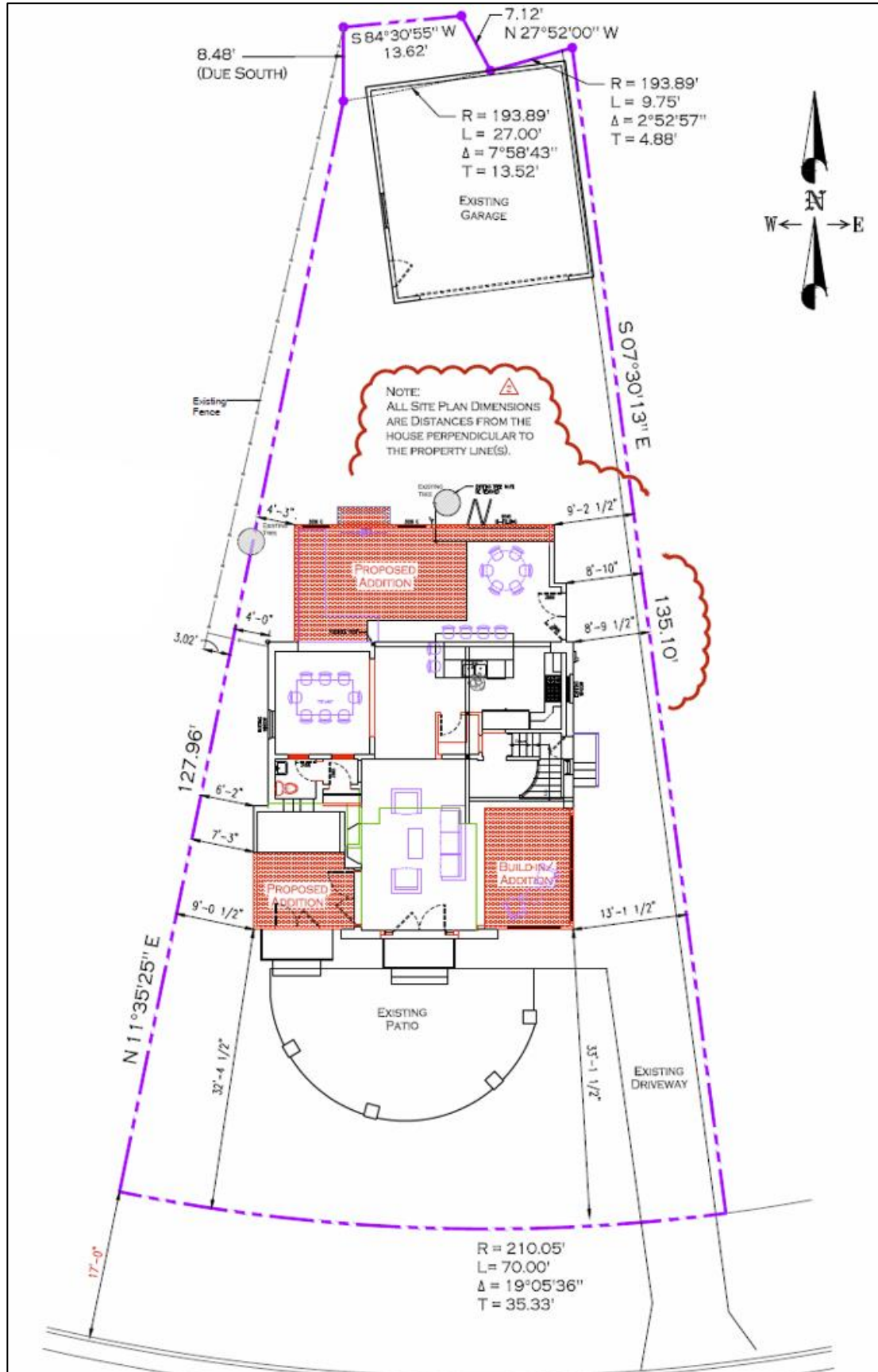
If the administrative decision is denied (special exception is not approved), the planned construction to the rear of the house could not continue as currently designed. If the design were changed to comply with the side yard setback requirements and all other provisions of the R-7,000 zoning district, construction could proceed after securing all required building permits.

Any decision by the Planning Commission may be appealed to the Appeals Hearing Officer within 10 days of the date of that decision.

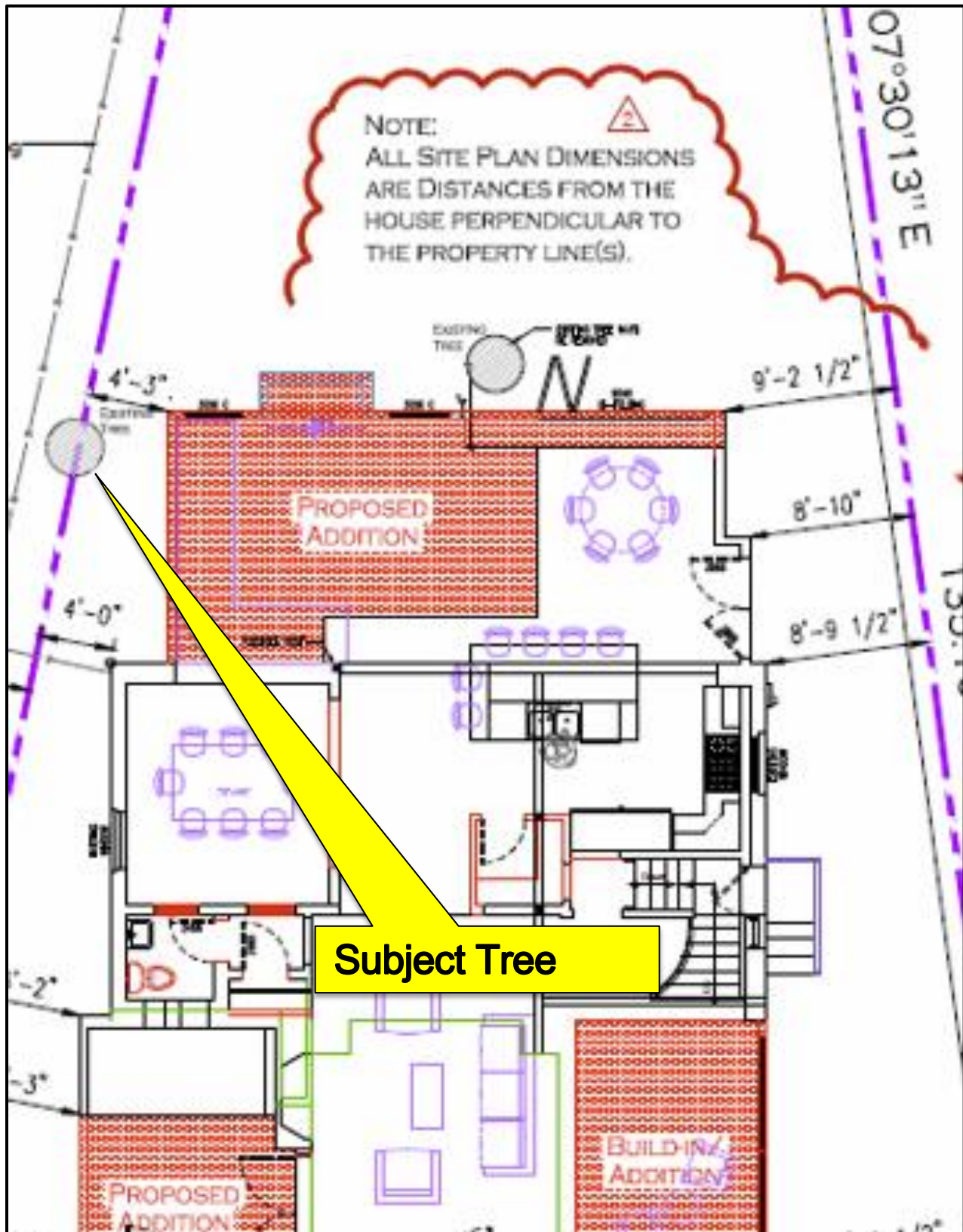
ATTACHMENT A: VICINITY MAP



ATTACHMENT B: SITE PLAN



Site Plan (Detail of Rear Inline Addition and Tree)



ATTACHMENT C: SITE PHOTOGRAPHS



Front of the house from the sidewalk



Front of the house from the driveway



Rear of the house with subject tree on the right side



Rear of the house with the subject tree and the appellant's home on the right



Subject tree with the appellant's home in the background

ATTACHMENT D: ZONING STANDARDS ANALYSIS

21A.52.060: GENERAL STANDARDS AND CONSIDERATIONS FOR SPECIAL EXCEPTIONS

No application for a special exception shall be approved unless the planning commission, historic landmark commission, or the planning director determines that the proposed special exception is appropriate in the location proposed based upon its consideration of the general standards set forth below and, where applicable, the specific conditions for certain special exceptions.

Standard	Finding	Rationale
A. Compliance with Zoning Ordinance and District Purposes: The proposed use and development will be in harmony with the general and specific purposes for which this title was enacted and for which the regulations of the district were established.	Complies	<p>The purpose of the R-1/7,000 single-family residential district is: <i>to provide for conventional single-family residential neighborhoods with lots not less than seven thousand (7,000) square feet in size. Uses are intended to be compatible with the existing scale and intensity of the neighborhood. The standards for the district are intended to provide for safe and comfortable places to live and play, promote sustainable and compatible development patterns and to preserve the existing character of the neighborhood.</i></p> <p>The proposed addition conforms with the stated purpose in that it will remain a single family use, it fits the scale and intensity of the neighborhood, and it is compatible with the existing development pattern of the neighborhood.</p>
B. No Substantial Impairment of Property Value: The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located.	Complies	<p>There is no evidence that the proposed addition would have a negative impact on property value within the neighborhood. The improvements may serve to enhance the character of the structure. Only a small percentage of the proposed addition is located in the setback and there should be no significant difference if the applicant had opted to stay completely within the setback line. Therefore, there is no evidence of a substantial impairment of property value.</p>
C. No Undue Adverse Impact: The proposed use and development will not have a material adverse effect upon the character of the area or the public health, safety and general welfare.	Complies	<p>There is no evidence that the proposed addition will have any of the negative effects listed.</p>
D. Compatible with Surrounding Development: The proposed special exception will be constructed, arranged and operated so as to be compatible with the use and development of neighboring property in accordance with	Complies	<p>The proposed special exception for the addition on the rear of the house is compatible with the use and development of neighboring property in that it is expanding the established use as a single family dwelling and it is encroaching into the side yards less than the existing structure.</p>

the applicable district regulations.		
E. No Destruction of Significant Features: The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance.	Complies	No scenic or historic features of significant importance will be destroyed, lost or damaged through this proposed addition. There has been concern raised by neighbors that trees may be in danger of being removed or dying off later if the proposed addition is allowed. The applicant has stated that it is his intention to keep all trees if possible. However, even if trees are lost, Planning Staff does not consider that to qualify under this standard.
F. No Material Pollution of Environment: The proposed use and development will not cause material air, water, soil or noise pollution or other types of pollution.	Complies	There is no evidence suggesting that the proposed addition would cause material pollution of the environment.
G. Compliance with Standards: The proposed use and development complies with all additional standards imposed on it pursuant to this chapter.	Complies	There are specific standards for in-line additions as illustrated in the following table. The proposed use and development meets all applicable standards.

21A.52.030: SPECIAL EXCEPTIONS AUTHORIZED:

15. In line additions to existing residential or commercial buildings, which are noncomplying as to yard area or height regulations provided:

Standard	Finding	Rationale
A. The addition follows the existing building line and does not create any new noncompliance.	Complies	In section 21A.62.040 of the Salt Lake City Municipal Zoning Code, building line is defined as: <i>A line dividing a required yard from other portions of a lot.</i> The proposed addition to the rear of the house follows the existing building line and does not create a new noncompliance. The proposed addition will extend into the building line less than the existing structure.
B. No additional dwelling units are added to the structure.	Complies	No additional dwelling units are proposed for the addition. This is an expansion of an existing single family dwelling.
C. The addition is a legitimate architectural addition with rooflines and exterior materials designed to be compatible with the original structure.	Complies	The addition is a legitimate architectural addition that will be compatible with the existing structure. Submitted elevation drawings illustrate that it will complement the existing design and will be fully integrated into the design of the house. Although, the applicant has submitted plans which show an addition to the front of the house as well, this special exception review only applies to the rear addition due to the front addition meeting all of the underlying specifications of the R-1/7000 zoning district.

ATTACHMENT E: SPECIAL EXCEPTION APPLICATION



Special Exception NOTICE OF APPLICATION

☐ Planning Commission

☐ Historic Landmark Commission

OFFICE USE ONLY

Project #: <i>PLNPCM2017-00321</i>	Received By: <i>L. Parisi</i>	Date Received: <i>4/28/2017</i>	Zoning: <i>R-1-7,000</i>
Project Name: <i>In Line Addition</i>			

PLEASE PROVIDE THE FOLLOWING INFORMATION

Type of Special Exception Requested: <i>In Line Addition</i>	
Address of Subject Property: <i>1373 E Arlington Dr</i>	
Name of Applicant: <i>Kris Getzie</i>	Phone: <i>651 295 2035</i>
Address of Applicant: <i>same</i>	
E-mail of Applicant: <i>kgetzie@gmail.com</i>	Cell/Fax:
Applicant's Interest in Subject Property: <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Contractor <input type="checkbox"/> Architect <input type="checkbox"/> Other:	
Name of Property Owner (if different from applicant): <i>Rob Lynch CJS53 Partners LLC</i>	
E-mail of Property Owner: <i>rlynch0527@gmail.com</i>	Phone:

Please note that additional information may be required by the project planner to ensure adequate information is provided for staff analysis. All information required for staff analysis will be copied and made public, including professional architectural or engineering drawings, for the purposes of public review by any interested party.

WHERE TO FILE THE COMPLETE APPLICATION

Mailing Address: Planning Counter PO Box 145471 Salt Lake City, UT 84114	In Person: Planning Counter 451 South State Street, Room 215 Telephone: (801) 535-7700
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REQUIRED FEE

Filing fee of \$248, plus additional cost of postage for mailing notice to abutting property owners and tenants

SIGNATURE

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


Signature of Owner or Agent:

4/28/17
Date:

SUBMITTAL REQUIREMENTS

Staff Review



1. Project Description (please attach additional sheet)

☐

Written description of your proposal

2. Minimum Plan Requirements

☐

One paper copy (24" x 36") of each plan and elevation drawing

☐

A digital (PDF) copy of the each plan and elevation drawing

☐

One 11 x 17 inch reduced copy of each plan and elevation drawing

3. Site Plan

☐

Site plan (see *Site Plan Requirements* flyer for further details)

4. Elevation Drawing (if applicable)

☐

Detailed elevation, sections and profile drawings with dimensions drawn to scale

☐

Type of construction and list the primary exterior construction materials

☐

Number, size, and type of dwelling units in each building, and the overall dwelling unit density

Digital Copies on TDD
BLD2017-02280

AVAILABLE CONSULTATION

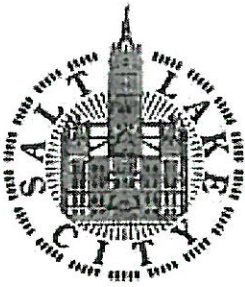
- Planners are available for consultation prior to submitting this application. Please call (801) 535-7700 if you have any questions regarding the requirements of this application.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

10

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.

Proposing addition to the rear of the house, in-line with existing property line. The lot gets skinnier as it goes back, so we will need an exception, if possible, on the N.E. corner.



SALT LAKE CITY CORPORATION

Buzz Center

451 South State Street, Room 215 Phone: (801) 535-7700
P.O. Box 145471 Fax : (801) 535-7750
Salt Lake City, Utah 84114

Date: Apr 28, 2017

PLANNING COMMISSION

1373 E. ARLINGTON DRIVE
SALT LAKE CITY, UT

Project Name: GETZIE IN LINE ADDITION

Project Address: 1373 E ARLINGTON DR

Detailed Description:



* P L N P C M 2 0 1 7 - 0 0 3 2 1 *

REQUESTING SPECIAL EXCEPTION TO ACCOMMODATE A REAR ADDITION ON A PIE SHAPED LOT.

Description	Qty	Dept	C Ctr	Obj	Amount		
					Invoice	Paid	Due
Invoice Number: 1423522							
Filing Fee	1	06	00900	125111	\$248.00	\$0.00	\$248.00
Postage for Planning Petitions	5	06	00900	1890	\$2.45	\$0.00	\$2.45
Total for invoice 1423522					\$250.45	\$0.00	\$250.45
Total for PLNPCM2017-00321					\$250.45	\$0.00	\$250.45

OFFICE USE ONLY
Intake By: PL4788

CAP ID #
PLNPCM2017-00321
Total Due: \$250.45



Treasurer's Office
Rcpt# 1375992
PL NPCM2017-00321 CH
\$250.45 4/28/2017



* P L N P C M 2 0 1 7 - 0 0 3 2 1 *

www.slcpermits.com

Please Keep This
Box Clear

ATTACHMENT F: APPEAL APPLICATION



Appeal of a Decision

(PLNAPP2017-00404)

OFFICE USE ONLY

Project # Being Appealed:

PLNPCM2017-00321

Received By:

L. Parisi

Date Received:

5/30/2017

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:

Appeal of Special Exception at 1373 E. Arlington

PLEASE PROVIDE THE FOLLOWING INFORMATION

Decision Appealed:

ADMINISTRATIVE DECISION PLNPCM2017-00321

Address of Subject Property:

1373 E. ARLINGTON DR. SLC. UT 84103

Name of Appellant:

JULIE BLEYER-WHITE & MICHAEL WHITE

Phone:

513-225-4425

Address of Appellant:

1363 E. ARLINGTON DR. SLC. UT 84103

E-mail of Appellant:

jbleyerwhite@gmail.com

Cell/Fax:

513-225-4425

Name of Property Owner (if different from appellant):

(SAME)

E-mail of Property Owner:

(SAME)

Phone:

513-225-4425

Appellant's Interest in Subject Property:

ADJACENT PROPERTY OWNERS @ 1363 ARLINGTON

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 \$248.

✓ #2271

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.

SALT LAKE CITY PLANNING

Signature of Owner or Agent:

Date:

05.26.2017

SUBMITTAL REQUIREMENT



A written description of the alleged error and the reason for this appeal.

WHERE TO FILE THE COMPLETE APPLICATION

Mailing Address: Planning Counter
PO Box 145471
Salt Lake City, UT 84114

In Person: Planning Counter
451 South State Street, Room 215
Telephone: (801) 535-7700

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 . . ."

If the evidence supporting the decision is not marshaled and responded to, the hearing officer cannot grant your appeal. It may be wise to seek the advice of an attorney experienced in local land use regulation to assist you.

May 26, 2017

Dear Salt Lake City Appeals Hearing Officer,

The owners of 1363 E Arlington Drive are appealing an administrative decision on the special exception applied for under petition PLNPCM2017-00321 for an inline addition to the rear addition plans at 1373 E Arlington Drive

Adjoining property ownership rights (1363 Arlington Drive) have not been taken into consideration, with ownership rights to a tree of concern (very large Linden tree) with making the decision to approve the rear addition plans in place for inline addition at 1373 Arlington PLNPCM2017-00321.

Planning has ignored adjacent property owner rights of 1363 E Arlington Drive, of a tree in concern, that resides 50% on this property and of which the property owners have ownership rights to preserving its healthy sustainability. Evidence has been gathered evaluating that the rear addition plans in place will damage this tree. Additionally monetary value has been assessed, that would cause hardships from a non pre-existing condition.

Written concerns were initially submitted to the planning director on May 14th, by 1363 Arlington owners expressing ownership rights to this tree in conflict and concerns with damage or destruction to the tree from the excavating & footers needed for the rear addition plans being approved. Planning erroneously did not look at, or share evidence to consider the adjoining property owner rights of 1363 Arlington Dr owners at time of its decision and should have gathered tree facts and hardship effecting property ownership rights of this tree in conflict before making decision.

We hired a certified Arborist to evaluated this tree-Linden Tree. Evidence has been gathered documenting that approving the rear addition plans in place will cause destruction and or damage to the linden tree and monetary hardship to property owners of 1363 Arlington that did not pre-exist. It has been assessed that:

- 1) The tree is large & in good health with a healthy root structure and is structurally strong
- 2) Excavating too close to the root zone will damage the root zone.
- 3) With the proposed plot plan addition in place for 1373 Arlington Drive, excavating will damage the root zone of this tree.
- 4) If the root zone is damaged it begins to decay
- 5) Recommendations for this tree have been made that the root zone be excavated with an air knife or air spade, not any closer than 10 (ten) feet from the trunk of the the tee

6) Monetary value has been assessed (see attachment).

Please find all applicable evidence attached as reference to support our appeal.

Owners of 1363 E Arlington have ownership right to the Linden Tree that sits also on their property. Evidence supports that the tree will be damaged with current plans in place damaged, and monetary hardship would be caused by non pre-existing conditions, if PLNPCM2017-00321 is approved with rear addition plans in place. We are seeking judgement to ensure we are not negatively effected with monetary burdens, that our property ownership rights our recognized to preserve the tree in concern, and no activity begin or be approved until resolved civilly.

Sincerely,

Julee Bleyer-White
Michael White
1363 E Arlington Drive

Two handwritten signatures in black ink. The top signature is cursive and appears to be 'Julee Bleyer-White'. The bottom signature is also cursive and appears to be 'Michael White'.



Julee Bleyer-White
1363 Arlington Drive
Salt Lake City, Utah 84103

Dear Julee,

This letter includes recommendations and appraised value for the Linden Tree located on the East property line of 1363 Arlington Drive, Salt Lake City, Utah.

The Linden Tree is large and in good health. I did not notice any structural defects, decay or insect damage. The Tree is in need of maintenance pruning to remove some interior dead wood. The tree also has grown heavily to the West. This is happening because of the shade provided by the large Elm Tree located East of the Linden tree at 1373 Arlington. Shade has a negative effect on leaf growth. If there is too much shade on a leaf or branch, the branch cannot create energy through photosynthesis. When a branch receives a large amount of shade for an extended period of time, the branch dies. This is a naturally occurring process and is normal for trees of all sizes.

The Linden tree has a good root flair indicating a healthy root structure and a structurally strong tree. The proposed plot plan for 1373 E. Arlington Drive shows a proposed addition. I feel that excavating that close to the root zone will damage the root zone. If the root zone is damaged it begins to decay. Excavation can be done safely around trees if done in a specific way. Behunin Tree recommends that the root zone be excavated with an air knife or air spade, not any closer than 10 (ten) feet from the trunk of the tree. Any roots exposed with the air knife can then be cut cleanly to promote new root growth and limit the amount of decay. Root damage can kill the tree, unfortunately root damage often will not show itself in crown die-back for up to 10 years after the root damage has occurred.

Behunin Tree proposes the following to take place in order to maintain the health and safety of this large Linden Tree.

1. The Linden tree be pruned to remove dead branches.
2. Root excavation and root pruning to enable new footings and foundation poured.
This should not be any closer to the trunk than ten (10) ten feet.
3. Deep root fertilization to lessen shock to the tree from root pruning

I have appraised this tree using the Trunk Formula Method with a value of \$19,500.00.
The proposed pruning and protection of the tree and root zone will cost: \$3,203.88.

Ben Behunin ISA UT-0041A
Behunin Tree
office@behunintree.com
801-969-8381 office

Behunin Tree
2247 W. 6200 S.
Taylorsville, UT. 84129

TRUNK FORMULA METHOD FORM

LOCATION: 1363 Arlington Dr. Salt Lake City, Utah

Appraised Value = Basic Value x Condition % x Location %

Basic Value = Replacement Cost + (Basic Price x [TA_A - TA_R] x Species %)

1. Replacement Cost: largest transplantable tree*			\$420
2. Basic Price of replacement tree*	\$58 /in ² (cm ²)		
3. Difference in trunk areas of appraised & replacement trees			
Appraised	27 Dia In	single stem	
A. Appraised tree trunk area (TA _A or ATA _A)**	572.3 in ²		
B. Replacement tree trunk area (TA _R)*	4.9 in ²		
C. Difference in trunk areas	567.4 in ²		
4. Multiply Basic Price difference in trunk areas			
$\frac{\$58}{\text{(Line 2)}} \text{ /in}^2\text{(cm}^2\text{)} \times \frac{567.4}{\text{(Line 3C)}} \text{ /in}^2\text{(cm}^2\text{)}$	=		\$32,906.82
5. Adjust Line 4 by Species rating*	90.0% Linden	=	\$29,616.14
6. Basic Value =	$\frac{\$420}{\text{(Line 1)}} + \$ \frac{\$29,616.14}{\text{(Line 5)}}$	=	\$30,036.14
7. Adjust Line 6 by Condition	75.0%	= \$	\$22,527.11
8. Adjust Line 7 for Location :	85%		
Location = (Site + Contribution + Placement) ÷ 3			
=	90.0% 85.0% 85.0%	/ 3 =	86.7%
			\$19,523.50
9. Appraised Value = Round Line 8 to nearest \$100		=	\$19,500

Replacement cost* = Cost to buy & install largest-commonly-available-replacement tree but with no adjustments.

Basic Price* = Cost per unit trunk area of replacement tree. Can be based on the wholesale, retail or installed cost.

TA_A = **Trunk Area** of appraised tree (dia. 30" [75 cm] or less). See Table 4-1, 4-2, 4-3, or 4-4 or use the equation below:

$$TA_A = 0.785d^2 \text{ or } 0.080c^2$$

ATA_A = **Adjusted Trunk Area** of appraised tree more than 30" in diameter. See Table 4-1, 4-2, 4-3 or 4-4 or use an equation below:

English units for diameter > 30":

$$ATA = -0.335d^2 + 69.3d - 1087$$

for circumference . 94":

$$ATA = -0.0333c^2 + 22.1c - 1087$$

Metric units for diameter . 75 cm:

$$ATA = -0.335d^2 + 176d - 7020$$

for circumference . 240 cm:

$$ATA = -0.0336c^2 + 56.4c - 7020$$

TA_R* = Trunk Area of largest-commonly-available-replacement tree

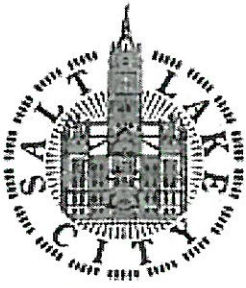
Species* = Species rating of appraised tree

Condition = Structural integrity and health rating

Location = Site. Contribution. & Placement ratings averaged

*Normally determined by a regional group or ISA chapter

**Use AT_A for trees larger than 30" (75cm) in diameter



SALT LAKE CITY CORPORATION

Buzz Center

451 South State Street, Room 215 Phone: (801) 535-7700

P.O. Box 145471 Fax : (801) 535-7750

Salt Lake City, Utah 84114

Date: May 30, 2017



APPEAL APPLICATION

1363 E. ARLINGTON DRIVE

SALT LAKE CITY, UT

Project Name: ADMINISTRATIVE APPEAL

Project Address: 1373 E ARLINGTON DR

Detailed Description:



* P L N A P P 2 0 1 7 - 0 0 4 0 4 *

APPEALING ADMINISTRATIVE DECISION FOR A SPECIAL EXCEPTION AT 1373 E. ARLINGTON - PLNPCM2017-00321.

Description	Qty	Dept	C Ctr	Obj	Amount		
					Invoice	Paid	Due
Invoice Number: 1430134							
Filing Fee	1	06	00900	125111	\$248.00	\$0.00	\$248.00
Postage for Planning Petitions	32	06	00900	1890	\$15.68	\$0.00	\$15.68
Total for invoice 1430134					\$263.68	\$0.00	\$263.68
Total for PLNAPP2017-00404					\$263.68	\$0.00	\$263.68

OFFICE USE ONLY

Intake By: PL4788

CAP ID #

PLNAPP2017-00404

Total Due: \$263.68



Treasurer's Office
Rcpt# 1378192
PL PLNAPP2017-00404 CHA
\$263.68 5/30/2017



* P L N A P P 2 0 1 7 - 0 0 4 0 4 *

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**ATTACHMENT G: ADMINISTRATIVE APPROVAL
FINDINGS AND ORDER**

FINDINGS AND ORDER
PLANNING COMMISSION PETITION PLNPCM2017-00321



Special Exception for Inline Addition at 1373 E Arlington Drive

This petition was submitted by Kris Getzie on behalf of the owner of the property (JJ53 Partners LLC) at 1373 E Arlington Drive. The requested Special Exception is to allow for an inline addition to the rear of an existing house located on the parcel. The proposed addition would be within the required side yard setbacks but would extend less into the side yard than the existing structure. Additions are also planned for the front of the structure but they will comply with the setbacks in that area. The triangular shape of the parcel gets smaller as you move further north. Consequently, the front addition meets all underlying setback requirements but the rear addition does not. The subject parcel is located in the R-1/7000 (Single Family Residential) zoning district.

STANDARDS OF REVIEW AND ANALYSIS:

In the following analysis, the standards of review will be in bold and the analysis of each will be directly below in regular type. Special exceptions shall be permitted if the following general standards and considerations from Chapter 21A.52.60 are made:

In line additions to existing residential or commercial buildings, which are noncomplying as to yard area or height regulations provided:

- a. The addition follows the existing building line and does not create any new noncompliance.**

In section 21A.62.040 of the Salt Lake City Municipal Zoning Code, building line is defined as: *A line dividing a required yard from other portions of a lot.* The proposed addition to the rear of the house follows the existing building line and does not create a new noncompliance. The proposed addition will extend into the building line less than the existing structure.

- b. No additional dwelling units are added to the structure.**

No additional dwelling units are proposed for the addition. This is an expansion of an existing single family dwelling.

- c. The addition is a legitimate architectural addition with rooflines and exterior materials designed to be compatible with the original structure.**

The addition is a legitimate architectural addition that will be compatible with the existing structure. Submitted elevation drawings illustrate that it will complement the existing design and will be fully integrated into the design of the house. Although, the applicant has submitted plans which show an addition to the front of the house as well, this special exception review only applies to the rear addition due to the front addition meeting all of the underlying specifications of the R-1/7000 zoning district.

- A. Compliance With Zoning Ordinance And District Purposes: The proposed use and development will be in harmony with the general and specific purposes for which this title was enacted and for which the regulations of the district were established.**

The purpose of the R-1/7,000 single-family residential district is: *to provide for conventional single-family residential neighborhoods with lots not less than seven thousand (7,000) square feet in size. Uses are intended to be compatible with the existing scale and intensity of the neighborhood. The standards for the district are intended to provide for safe and*

comfortable places to live and play, promote sustainable and compatible development patterns and to preserve the existing character of the neighborhood.

The proposed addition conforms with the stated purpose in that it will remain a single family use, it fits the scale and intensity of the neighborhood, and it is compatible with the existing development pattern of the neighborhood.

B. No Substantial Impairment of Property Value: The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located.

This proposed addition should not have a negative impact on property value within the neighborhood. The improvements may serve to enhance the character of the structure. Only a small percentage of the proposed addition is located in the setback and there should be no significant difference if the applicant had opted to stay completely within the setback line. Therefore, there is no evidence of a substantial impairment of property value.

C. No Undue Adverse Impact: The proposed use and development will not have a material adverse effect upon the character of the area or the public health, safety and general welfare.

There is no evidence that the proposed addition will have any of the negative effects listed.

D. Compatible With Surrounding Development: The proposed special exception will be constructed, arranged and operated so as to be compatible with the use and development of neighboring property in accordance with the applicable district regulations.

The proposed special exception for the addition on the rear of the house is compatible with the use and development of neighboring property in that it is expanding the established use as a single family dwelling and it is encroaching into the side yards less than the existing structure.

E. No Destruction Of Significant Features: The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance.

No scenic or historic features of significant importance will be destroyed, lost or damaged through this proposed addition. There has been concern raised by neighbors that trees may be in danger of being removed or dying off later if the proposed addition is allowed. The applicant has stated that it is his intention to keep all trees if possible. However, even if trees are lost, Planning Staff does not consider that to qualify under this standard.

F. No Material Pollution Of Environment: The proposed use and development will not cause material air, water, soil or noise pollution or other types of pollution.

There is no evidence suggesting that the proposed addition would cause material pollution of the environment.

G. Compliance With Standards: The proposed use and development complies with all additional standards imposed on it pursuant to this chapter.

The proposed use and development does meet all applicable standards.

FINDINGS:

- Notice of the application was sent to all abutting property owners and residents on May 5, 2017.
- The notice period for the project expired on May 17, 2017.
- Three comments were received and were taken into consideration when making this determination.

- The proposal meets the standards of review of Section 21A.52.060.
- Submitted plans generally meet the standards of the Zoning Ordinance.
- A decision to approve this special exception was made on May 18, 2017. The appeal period for this decision will expire on May 28, 2017.

ORDER:

The Special Exception applied for under petition PLNPCM2017-00321 for an inline addition is granted subject to the following conditions:

1. The additions shall be constructed according to the approved site plan and elevations.
2. Proposed construction shall comply with all other provisions of 21A.24.070: R-1/7000 (Single Family Residential) zoning district.
3. The applicant must secure a building permit from Salt Lake City Building Services.

APPEAL OF DECISION:

- A. Any party aggrieved by a decision of the planning director may appeal the decision to the planning commission pursuant to the provisions in chapter 21A.16 of this title.
- B. Any party aggrieved by a decision of the planning commission on an application for a special exception may file an appeal to the appeals hearing officer within ten (10) days of the date of the decision. The filing of the appeal shall not stay the decision of the planning commission pending the outcome of the appeal, unless the planning commission takes specific action to stay a decision.

FAILURE OF THE APPLICANT TO ABIDE BY THE CONDITIONS OF THIS ORDER SHALL CAUSE IT TO BECOME NULL AND VOID WHICH IS IN EFFECT THE SAME AS IT HAVING BEEN DENIED.

THIS SPECIAL EXCEPTION WILL EXPIRE IF THE NECESSARY PERMITS HAVE NOT BEEN OBTAINED WITHIN TWELVE MONTHS OF THE DATE OF THIS ORDER OR AN EXTENSION OF TIME GRANTED PURSUANT TO SECTION 21A.52.100.

Dated in Salt Lake City, Utah, this 19th day of May, 2017.



Chris Lee, Principal Planner
Salt Lake City Planning Division

ATTACHMENT E: PUBLIC PROCESS AND COMMENTS

Public Process:

- Notice of application letters sent to abutting property owners on May 5, 2017
- Issued Administrative Findings and Order for approval on May 19, 2017
- Received Appeal application on May 30, 2017
- Public hearing notice mailed on June 15, 2017
- Public hearing notice posted on the City and State websites on June 15, 2017
- Public hearing sign posted on property on June 15, 2017

Public Comments:

After the notice of application letters were sent out to abutting neighbors, I received email responses from three of them. The emails are included below.

May 14, 2017

Case # PLNPCM2017-00321

Dear Mr. Lee,

Arlington Drive residents are distraught with the remodel of the 1373 Arlington home due to the lack of respect to the trees that border this property.

Here are our concerns:

1. He tore down a 75 foot growth tree (about a 3 foot caliper) that was not on in his property, resulting in legal action.
1. We own ½ of a 75 +foot / 3 foot caliper that sits 1/2 on our property. We expect this tree to be preserved.
1. Approving an inline exception for 1373 Arlington new addition would further compromise the life of this tree with large footings needed. Have him redraw this staying in code to save this tree.
1. Damaging or destroying this tree would result in thousands of our dollars to have this removed, redefine the property, and would not favor our property value.

It is time Salt Lake City Planning take a further look at this property before making any inline exceptions for 1373 Arlington. I hope the city gives our concerns serious consideration.

Sincerely,

Michael White & Julee Bleyer-White



May 15, 2017

Mr. Chris Lee
Salt Lake City Corporation

Re: Case # PLNPCM2017-00321

Dear Mr. Lee

As the property owners of 1383 E Arlington Drive, we are strongly objecting to the granting of a Special Exception for the 1373 E Arlington Drive for the following reasons:

1. There must have been a good reason for the codes to be written as they are today and they should be followed and in compliance. The reasons an exception could be granted as stated in your May 5th letter (15 a. "...follows the existing building line and does not create any new compliance.) clearly show they do not apply to this proposed addition.
2. Safety is a concern with the proposed structure being built so close to our home. The new garage is only 9" from the property line and with both structures so close there would be inadequate space to properly fight any emergencies without encroaching and endangering our property.
3. We purchased this home with reasonable expectations of privacy and this proposed addition and the new garage destroy that. Again, current code should be followed. The proposed addition is outside of code and the additional footage is not essential to the new structure and endangers our home. (15 c. "The addition is a legitimate architectural addition with rooflines and exterior materials designed to be compatible with the original structure.") The new garage structure is not "compatible with the original structure" and, therefore raises concern that the proposed addition will not be compatible.
4. We believe this proposed addition could be adding "additional dwelling units," which is also contrary to #15 b. This application indicates JJS3 Partners LLC as the owner and not an individual.
5. Federal Heights is a beautiful and historic tribute to Salt Lake City. The 100+ year-old Sycamore trees that line our streets are a testament to the love of community by our residents. We have spent thousands of dollars replacing the beautiful old trees that he cut down and which formed the natural separation of the two properties. Certainly he had the right to do so, other than the huge old tree sitting on a neighbor's property that is in litigation today because he cut it down without consent from the owner, and we subsequently paid for the new fence in its entirety and new trees on our

property as a result. But there is a reason our fine city has building codes for our neighborhoods, and I believe they should be followed in this case.

Thank you for your consideration. Please don't hesitate to call me [REDACTED] if you have questions or you would like to come visit the properties that will be negatively impacted by granting this Special Exception.

Sandra and Aaron Ferer
Homeowners



May 11, 2017

Case # PLNPCM2017-00321

Dear Mr. Lee,

The Neighborhood has been very frustrated by the remodeling of this home.

Here are some of the reasons:

1. He tore down an old growth tree that wasn't even on his property. About a 3 foot caliper. Resulting in legal action.
2. His remodeling is more in the line with a new Sandy subdivision and not a Federal Heights neighborhood. Roof lines on the new garage is about 4/12 pitch. His roof line on his house is about 16/12.
3. The new addition would put two more massive trees at risk, putting a large footing next to the two trees.
4. It is not to code so have him redraw it so it saves the trees as a minimum.

I hope the city gives this serious consideration.

Thanks

A handwritten signature in dark ink, appearing to read "Mark Finlinson", with a long horizontal flourish extending to the right.

Mark Finlinson

