



# Staff Report

PLANNING DIVISION  
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Salt Lake City Planning Commission  
From: Nick Norris, Planning Director (801)-535-6173  
Date: October 3, 2018  
Re: PLNSUB2015-00801 Jefferson Walkway Planned Development Major Modification

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## Type of Application

**PROPERTY ADDRESS: 830 South Jefferson Street**  
**PARCEL ID:**  
**MASTER PLAN: Downtown Master Plan**  
**ZONING DISTRICT: FB-UN1**

**REQUEST:** The applicant, Brody Leven, is requesting a major modification to the approved Jefferson Walkway Planned Development. The proposed modification would authorize an accessory building and mechanical equipment in the front yard of the property located at 830 South Jefferson Street.

**RECOMMENDATION:** The Planning Division recommends that the Planning Commission deny the proposed major modification because information has not been provided that indicates that the proposal is in substantial conformity with the approved development plan.

**ATTACHMENTS:**

- A. Applicant Information (includes site plan, building elevations, and project narrative)
- B. Vicinity Map
- C. Zoning Map
- D. Original Minor Modification Site plan and emails
- E. Approved (since revoked) Minor Modification Site Plan
- F. Original Planned Development Approval Letter
- G. Block Face Aerial
- H. Public Comments
- I. January 26, 2016 Planning Commission Staff Report



## **BACKGROUND**

The Jefferson Walkway Planned Development was originally proposed and approved as a way to increase the housing supply in the neighborhood and create a public walkway between Jefferson Street and the 900 South Trax Station on 200 West. Approving lots without street frontage, reducing some required setbacks, and other modifications were necessary in order to accomplish this goal. The purpose of having zero lot lines within the development was to optimize the quantity, quality and privacy of outdoor living space” (pg. 3 of January 26, 2016 staff report). In addition, the PD applicant in 2016 indicated that the “building proportions have been designed in an effort to be in keeping with the existing and surrounding structures on the block.” (pg. 51 of January 26, 2016 staff report).

This proposal came about initially as a request for a minor modification (more detail on the minor modification can be found in Attachment A). The issue was raised to a major modification as determined by the Planned Development ordinance because the scope of work expanded beyond the proposed minor modification and because the minor modification approval was based on information provided by the applicant that is now under dispute. The original approval was based on information that indicated that the dimension of a recessed portion of the street facing façade was a different dimension than it actually is.

## **KEY ISSUES:**

The key issues listed below have been identified through the analysis of the project, neighbor and community input and department review comments.

The zoning ordinance allows the Planning Commission to grant a major modification to any change to an approved planned development provided that:

- a. The modification does not require a change to a written condition of approval or easement; and
- b. Upon finding that any changes in the plan will be in substantial conformity with the approved development plan.

The primary question for the Planning Commission is whether or not the proposal is in substantial conformity with the approved development plan. The original planned development included a list of conditions of approval that can be found in Attachment F. None of the conditions of approval address the front yard setback for the property at 830 South Jefferson Street. The original intent of the approved development plan was to create a public walkway that could be used to provide pedestrian access from Jefferson Street to the Trax Station on 200 West. This necessitated approving development lots that did not have street frontage, modifying some setbacks for interior lot lines and setbacks along 200 West, and other changes to the FB-UN1 zoning district.

## **Issue 1: The location of the proposed accessory building and the front yard setbacks along Jefferson Street.**

The approved development intentionally established a front yard along Jefferson Street that complied with the minimum setback in the FB-UN1 Zoning District. In order to do this, it resulted in a request to reduce the rear yard setback to zero. This resulted in no rear yard provided on 830 Jefferson Street property. This meant that there was nowhere on the property where an accessory building could be placed. The purpose of having zero lot lines within the development was to optimize the quantity, quality and privacy of outdoor living space.” There does not appear to be any discussion in the minutes from the meeting where the planned development was approved that discusses the impact a zero setback would have had on the ability to build an accessory building.

The purpose of the zero setback layout of the subject property was to optimize the quantity, quality, and privacy of outdoor living space. Placing an accessory building that would mostly be located within the required front yard could be in conflict with optimizing the quantity of outdoor living space because the building would cover some of the yard area. Determining the impact to the quality of the outdoor space on 830 Jefferson Street is somewhat subjective.

The block face of Jefferson Street can be characterized by the building setbacks, low fences along the sidewalk, landscaped front yards, and some sort of porch or entry feature for each structure. It is debatable whether or not this structure would impact that character as some structures along Jefferson are closer or as close to the sidewalk than the proposed accessory building. However, those structures are not accessory buildings but rather the street facing facades of homes and front porches. The porches along Jefferson Street are defining features that help shape the streetscape and create desirable and secure outdoor living space along the block face.



Jefferson Street block face looking south towards subject property



The front yard setback in the FB-UN1 zoning district is listed as “Equal to average setback of block face, where applicable, otherwise minimum of 10’ and maximum of 20.” The ordinance does not provide guidance of when the average setback of the block face is considered “where applicable.” The Zoning Administrator has determined that the average setback is applicable when there are other principal buildings on the block face.

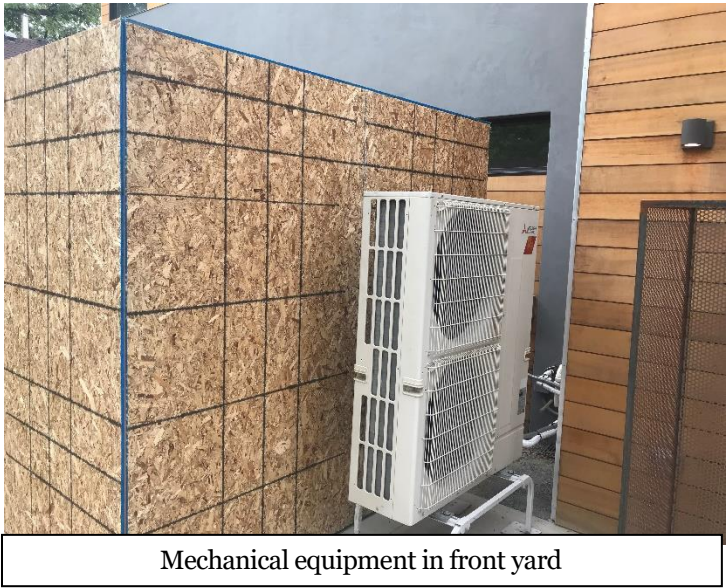
As part of the original planned development, the developer provided a calculation of the setbacks of the block face. The setbacks were shown from the edge of sidewalk, when the property lines on the block face are in reality set further back from the edge of the sidewalk. According to the original plans, the average setback was approximately nineteen feet. The range of setbacks along Jefferson Street is 14’7” on the low side and 25’6” on the high side as measured from the edge of the sidewalk. However, the applicant has measured the current setback from the fence to the closest part of the building and indicates that it is between sixteen and seventeen feet. The recorded plat for the development shows a setback of 19 feet. The proposed accessory building would end up being approximately fourteen feet from the location of the fence and extend approximately five feet into the front yard. If one were to stand on the Jefferson Walkway and look down the street from the location of the proposed building, one would be able to see that the proposed structure would visually be one of the closest structure to the street. Attachment G



Proposed accessory structure under construction

includes two aerial photos of the block face with the approximate setback line of the house at 830 Jefferson Street extended along the length of the block face. The purpose of these aerials is to demonstrate that some homes are closer to the street and some are further from the street when compared to the subject property.

Accessory buildings and mechanical equipment are prohibited in a required front yard. The request is to allow the accessory building to be mostly located in the front yard and to allow the mechanical equipment to be located in the front yard but not encroach further than the street facing façade of the proposed accessory building. The issue with locating the accessory building in the front yard is that it is not characteristic of the block face to have accessory building in the front yard. The mechanical equipment was located within the buildable area of the lot, which is permitted, but was relocated to be in the front yard and outside of the buildable area without any indication that it would be moved or without any required permits.



Mechanical equipment in front yard

### **Issue 2 Planning Commission authority**

The requested modification cannot result in a change to a written condition of approval or any recorded easements. The approval letter sent to the original applicant lists the conditions of approval for the planned development and can be found in Attachment F. There were not specific conditions of approval related to the front yard setback for the property at 830 South Jefferson Street. There are no recorded easements along the yard of the property that is adjacent to Jefferson Street. The Planning Commission is authorized to approve major modifications if the proposed changes are in substantial conformity with the approved development plan.

### **Issue 3 Neighbor concerns**

The primary concerns raised by the neighbors relate to the location of the proposed structure and the encroachment of the proposed structure into the required front yard. Some neighbors are concerned that approval of the proposed structure would grant new development a development right that other properties do not possess. The front yard setback issue and encroachment has been discussed in issue 1 on the previous page.

The subject of granting a property right that other properties on the block face do not possess is a difficult issue. It is true that a property that is approved as a planned development does have more flexibility when compared to properties that have not gone through that process. The other properties on Jefferson Street do have rear yards where they can build accessory structures. The subject property does not. However, the original intent of the planned development was to purposefully eliminate the rear yard within the planned development. As a purposeful request, the original applicant created a situation where the subject property would not have a rear yard to locate any sort of accessory structure. The applicant would have a small space within the buildable area of the lot to locate a small storage structure for yard tools. It most likely would not be able to be a structure that one could walk into.

All properties within the FB-UN1 zoning district have a limited development right that cannot be exceeded. In this case, granting the major modification would create a situation where the subject

property has exceeded the development right that exists within the FB-UN1 zoning district and the constraints of the approved planned development.

**DISCUSSION:**

The primary issue for the Planning Commission is whether or not the proposed accessory building and the mechanical equipment can be located in the required front yard and be in substantial conformity with the approved development plan. The zoning ordinance states that the PC may approve a major modification if the request is substantially consistent with the original planned development approval and if no changes to conditional of approval are made. That is up to the Planning Commission to determine.

Given what is known about the proposal, the Planning Division does not believe that allowing the proposed accessory building is consistent with the original approved planned development because:

1. The original planned development approval recognized the average setback along Jefferson and maintains the average setback instead of seeking a modification at the time of original approval.
2. The purpose of utilizing a zero setback along the rear property line was to optimize the quantity, quality and privacy of outdoor living space. An accessory building where most of the structure encroaches into the front yard diminishes the quantity of outdoor living space along Jefferson Street.
3. Allowing a front yard encroachment for accessory buildings was outside of the scope of the original planned development and requires a modification to the zoning regulations that prohibit accessory buildings in required front yards. This modification was not discussed as part of the original approval.

The Planning Commission could consider a modification to the proposal, such as a smaller accessory structure. A smaller encroachment, where most of the accessory structure would be located within the buildable area of the lot, would be a minimal change to the planned development and would be in substantial compliance with the original development plan. For example, an accessory structure that is only six feet in depth would result in an encroachment of three feet versus an encroachment of five feet. The mechanical equipment would have to be relocated to a different location if not approved by the Planning Commission.

**PUBLIC INPUT**

Major modifications are not required to go through the early engagement period that the original planned development went through. In this instance neighbors were made aware of the proposal through two different avenues. The subject property is part of an HOA and the HOA bylaws require HOA approval for some exterior changes to the properties that are part of the HOA. The applicant indicates that the HOA did grant approval of the project based on the same site plans that the City reviewed for the minor modification request. Second, neighbors along Jefferson Street became aware of the proposal once they saw the structure under construction. This is the point that neighbors started contacting the Planning Division about their concerns. Members of the HOA also contacted the Planning Division at that point in time as well.

The primary issues raised by the community were about the size of the structure, that it was bigger than what the applicant stated it would be, that some neighbors did not realize that the structure would encroach as far into the front yard as it does, and that the city was not treating all property owners on Jefferson equitably because other neighbors would not have the ability to build a shed in their front yards. Some neighbors indicated that the applicant knew that he was purchasing a home that had limited storage and that he should not be able to do something that other property owners could not do. Some property owners had asked for or already had a copy of the approved minor modification

and the site plan and indicated that they felt that information provided by the applicant was deceptive and did not reflect what he actually intended to construct.

### **MINOR MODIFICATION**

In June, the Planning Division was approached with the request to construct an accessory building in the required yard. The initial plans indicated that the accessory building would sit in an alcove created by the varying step back of the street facing building façade. The initial plans were interpreted to indicate that the step back was six feet in depth and that the majority of the structure would be within the buildable area of the property with the minority portion of the building extending into the front yard setback.

The Planned Development ordinance gives the planning director the authority to approve minor modifications to a planned development and lists items that qualify for a minor modification. The list includes the following:

1. Adjusting the distance as shown on the approved development plan between any one structure or group of structures, and any other structure or group of structures, or any vehicular circulation element or any boundary of the site;
6. Relocation or construction of accessory structures;

The Planned Development ordinance that was in effect when this planned development was approved also included the following section “Regulation during and following completion of development:”

Following planned development approval, the development plan, rather than any other provision of this title, shall constitute the use, parking, loading, sign, bulk, space and yard regulations applicable to the subject property, and no use or development, other than home occupation and temporary uses, not allowed by the development plan shall be permitted within the area of the planned development.”

In reviewing these three sections of the planned development ordinance, the Planning Director made the determination that the director did have the authority to adjust the distance between the proposed accessory building and the boundary of the site (as listed in item 1 quoted above), that the construction of accessory structures was considered a minor modification, and that the approved development plan, rather than any other provision of the zoning ordinance, regulated development within the planned development area.

Before making a decision on the proposed minor modification, the applicant provided a site plan that showed the proposed location, dimension, and other relevant measurements (see image in Attachment D). The proposed site plan included what appeared to be two different dimensions for the sides of the proposed accessory building. The north side included a number “6” and the south side included a number “8”. The depth of the building step back was not shown. However, the site plan showed a dashed line to the south of the structure that was labeled as “7” and a separation between the house and the accessory building as a “1”. The site plan was interpreted to read that the alcove was approximately six feet in depth based on these dimension.

Later, the applicant indicated that he would prefer an 8’x8’ shed versus a 6’x8’ shed (Attachment E) and asked if the shed could be placed completely in the front yard along the north property line. The Planning Director stated that the proposed structure could not be placed completely in the front yard along the north property line. After that request, the applicant provided the same site plan with different dimensions. The south side of the shed was marked with an “8” and the north side was marked



with an “8” and what was read as a “6”. The dashed line measurements were not changed. Given the previous site plan and the updated site plan, a minor modification was approved under the premise that the accessory building would be mostly within the buildable area even at a depth of eight feet because the alcove was read to be six feet in depth (based on the additional number on the site plan and the seven foot dimension on the other side of the proposed structure).

The site plan also indicated that the utilities had already been relocated. The site plan shows in the bottom right hand corner that “utilities relocated.” This was interpreted to mean that the utilities had been relocated. The site plan provided at the time did not show the location of the mechanical equipment. Most site plans that show utilities will indicate where they are and whether or not they are already existing or to be relocated. This site plan did not show any utilities. Based on the information provided by the applicant there was no indication that any utilities would be located in a manner that might violate the zoning ordinance.

As a result of the review, a minor modification was approved to locate an accessory building at the proposed location based on the info provided by the applicant and how it was interpreted by the Planning Division.

There was some indication from neighbors that they wanted to work with the applicant to find a reasonable solution that included a smaller building. Emails that were received are considered to be part of the public record and have been attached to this staff report. Personal contact info, including email addresses have been redacted because that information is considered protected information under applicable Utah codes.

After construction had started, two phone calls were made to the Planning Division complaining about the building. As a result, a site visit was performed by the Planning Director. The site visit demonstrated that the information that the minor modification was based on was incorrect. The depth of the alcove was only four feet, not six. The proposed structure was approximately eight feet by ten feet, nine inches. The mechanical equipment had been relocated so it was now in the required front yard. After the visit, the Planning Director informed the applicant that the minor modification was void because it was based on erroneous information and that the work exceeded what was authorized under the minor modification. The applicant was told that his options were to seek a major modification. If the information provided by the applicant reflected what is now known, the minor modification would not have been approved.

**NEXT STEPS:**

If the Planning Commission finds that the proposal is in substantial conformity with the planned development and approves the proposal, then the applicant would be permitted to seek all necessary permits. In this instance, mechanical permits would likely be required and the walls of the accessory building would have to be fire rated walls to comply with the applicable fire codes. It is possible that a building or fire code may prevent the structure from being built as proposed. An approved modification to a planned development only authorizes the applicant to submit necessary permits. Planned Development approval does not trump or override other building or fire codes. The requirements of other applicable codes shall be complied with.


If the Planning Commission does not find that the proposal is appropriate, than the applicant could apply for a new planned development to seek approval of the accessory building by approving the location of the building, a reduced front yard setback, and the location of the mechanical equipment. However, it would be difficult for the applicant to prove that the limited scope of the request would satisfy the objectives of the planned development ordinance.

If the request is denied, the applicant would have to remove the structure and move the mechanical equipment to the previous location in order to comply with the planned development and avoid any related zoning enforcement action. The minor modification is considered void already because it was based on information provided by the applicant that was later determined to be incorrect.

# **ATTACHMENT A: APPLICATION INFORMATION**

22 Aug. 2018

Brody Leven  
830 S. Jefferson Street  
Salt Lake City, Utah 84101



To whom it may concern,

After months of research and work, construction has finally started on the sole accessory structure placed on my property at 830 S. Jefferson Street in the Central Ninth neighborhood of Salt Lake City, a place I've called home since 2006, when I moved here at 18 years old to attend Westminster College on a scholastic and need-based scholarship. I am now a business owner and active member of the community, volunteering with numerous organizations and working to enrich this neighborhood while respecting its history and residents.

This is my first time ever doing anything like this, and thus construction has only begun after extreme investment of resources. I have received approval from my Jefferson Walkway HOA. I requested and received permission from Rocky Mountain Power. I received written approval from the Salt Lake City Planning Director, who informed me that his was actually the *only* permission I needed since this is a "minor modification." After speaking with my neighbors and HOA, I vetted the seven best accessory structure builders in the state of Utah and ended up paying an absolute premium for the company that instilled the most confidence, and then paid even more to have the owner himself as the construction foreman. The construction schedule was designed to be as short as possible, with minimal neighborhood disturbance in mind. It started earlier this week and was to be complete within two weeks.

The structure is being built with the same materials as the Jefferson Walkway houses in order to blend in harmoniously with our surroundings, designed to look more like part of the house than like an accessory structure.



The structure covers part of the house sided in knotless clear vertical grain cedar milled in a 1/8" inline profile siding, sealed with Superdeck 1901. The shed is being built with this exact same siding, so it appears as the house did without it. The corners of each piece of siding is being mitered to fit perfectly flush with the adjacent piece with no hardware showing.



The roofing on the shed will be black metal, to blend in harmoniously with the black metal on the neighboring overhang's soffit at my house's main entrance (see right).

Although the useable interior space is only 8x8x7.5' high, there is also a 7.5' tall, 8' wide, 32" deep overhang on the south side of the structure's top and some walls. While open and not enclosed, this offers protection over the door but also mimics the overhang style of entryways to each of the Jefferson Walkway houses. Its west wall is in front of the electric utility meter, and can be either 1) removed (so the awning is only on top and the east wall), or, as suggested by Rocky Mountain Power, simply turned into a door that allows easy and unrestricted access to the power meter. I'm open to any suggestion and compromise on this west wall of the overhang by the meter.

To look like the wall of the house that it's veiling, the shed is already framed for a 6x1' window I've had custom made. Like my house's other windows, it has a black frame and is shaped like the window behind it. This is placed near the top of the wall and is only 1' tall in order to maximize safety and eliminate the chance of burglary. It also will give it the appearance of being part of the house. It will be as congruent as possible to the others on the Walkway (see below).



The shed is to be securely locked with a metal handle and latch that I've had custom ordered, to match the accents on the exterior of the planned development houses.

All of these materials were purchased in early August immediately after receiving special permission from the Planning Director and being informed that no other special permission or permits or approval was necessary. They, along with the construction, have already been paid for per the approval I received on 28 June 2018. I acted on this approval letter in good faith, but no further questions arose and I was explicitly informed that I had all done all necessary procedures, and thus I moved forward in my planning and execution, as informed by the Planning Division of the Salt Lake City Corporation. This is already under construction provided the permit I was granted in June, but is sitting unfinished in my yard.

Like the below photo it will be sided with horizontal wood planks (identical to the wood siding it will sit in front of and hide on my house) and the door will also be sided like this, making it “invisible.” The window, though there is only one, will stretch 6’ of the 8’ span and be high on the structure, as indicated in



the photo below.





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ground irrigation was modified upon building approval and plants were moved and replanted that are grown in my street-facing yard, which is the only yard I have. My outdoor heat pump's broad side was previously located in my street-facing front yard and was an eyesore, so I incorporated a rotation of that into my design, rotating it so the narrow side would be visible from the street instead of its broad side, and covering it with a metal housing I've had custom fabricated. It is now completely hidden from view on Jefferson Walkway and only its 1' narrow side instead of its 3'8" broad side is visible from Jefferson Street. All manufacturer's recommended tolerances and spacing were followed, with a minimum of 6 7/8" from the shed on the unit's intake side where I've allowed 8". A professional local HVAC company worked two days at my house to rotate the unit, moving it out of the way of the shed while disguising it from street view. It has already been professionally attached to the concrete in order to protect it during inclement weather, the exact same way it was attached in its previous position. Below, see the heat pump in its original position. The shed now covers that position as well as the cedar paneling behind it. That paneling measures 8' in length, just like the usable space of the accessory structure. Below is a photo of the "before" view of the heat pump, the relocation of which does not necessitate a mechanical permit since it's using the same electrical, etc.





All of this came at an extraordinary expense to me, but were things I wanted to address properly in order to do things right. I always function under the ethos that it's best to do things right the first time than re-do them. Once I received the approval and went through what I thought to be all the necessary steps—which took months—I paid for the construction and began the entirely permitted, legal, and proper procedure. I was proud to have worked through the entire process correctly and have my shed under construction. It's delayed now, sitting unbuilt in my yard since mid-August, awaiting additional approval to be finished and become an aesthetically-pleasing part of the neighborhood in addition to a substantial conformity with all approved plans. For the time being, it's ugly OSB board and nothing that I nor the neighbors would want around. When it's done, it'll be beautiful like the nearby houses.

The structure is certainly entirely congruent with the design features of the Jefferson Walkway planned development and does not interfere with its intent, vitality, or use. Visibility down the Walkway is in no way interrupted. In fact, the other planned development houses can't even see the accessory structure. Visibility down Jefferson Street is also not interrupted. The structure's setback, at 16'-17', is less than some other houses. The result will be constructed of the same materials that were explicitly permitted for Jefferson Walkway, record number PLNSUB2015-00801. The same siding, metal, and wood stain is to be

used, and after extensive consideration, I've had it custom designed and permitted to fit within an existing



4' 2" deep alcove beside the house.

The day after the structure's construction started, Planning Director Nick Norris was contacted by a neighbor who previously expressed no concern with the construction. This caused Nick to explain that he misinterpreted the plans I submitted, which are accurate but were misinterpreted. As a seller, the developer informed me upon purchase I could have an accessory structure given HOA approval. Once I closed on my house, I learned that this was a false disclosure of information, as I actually couldn't legally build anything in my yard since it is only a street-facing front yard. But before I turned around and sold my dream house due to his false disclosure, I started down the path of getting special approval from the Salt Lake City Community & Economic Development's Planning Division. I desperately need this accessory structure for safe keeping of my belongings, since I don't have inside storage or a protected yard as the rest of Jefferson Walkway and Jefferson Street houses do, and I wanted to ensure that I could figure out a way to have it built legally and in accordance with all necessary procedures and regulations. Safety has been a concern, with a steady flow of unwelcome people appearing in my yard and theft of my property. I was simply seeking equal opportunity to feel safe as all other surrounding houses, and that's why I did everything I was told to do and have made the investment. Had anyone in the city and county building brought this up before my approval and purchase, I would have found this to be fair. Now, bringing it up post-approval and post-purchase has been extraordinarily hard on me, as the work is all but finished. Unfortunately, my neighbors have to live with this eyesore nearby until I have permission to get it sided, the window installed, and have it slid into place, all of which should only take a day or two.

On 15 June 2018, immediately after meeting Nick in his downtown office, I sent him site plans (FIG 1) with the location of the proposed 6x8x8' shed. On 21 June 2018, after discussing with various builders and designers, I send revised plans (FIG 2), and explained in the email text that *"A builder came by last night and told me 8x8x8' is my best bet, as 6' width really isn't useable because interior width is then only 5'. So it'll be an 8x8x8' structure tucked into that nice little nook on my house.."* This changed the 6' width of the shed to be 8'. I crossed out both of the 6's that were on the original site plan indicating the

width of the shed with an X. Beside each of them, on the exact same line as the original 6, I placed an 8'. All of these numbers were written with the same orientation and in the same location. The 6's were simply being replaced by 8's because I was proposing a change from a 6x8x8' shed to a 8x8x8' shed. I received no reply, and a week later, Nick approved the modification in "Minor Modification to PLNPCM2015-00801 Jefferson Walkway Planned Development," electronic file PLNSUB2015-00801. The letter approves my second set of plans (FIG 2), exactly as written, with no modification. The letter also explicitly permits "a storage container in the corner side yard of the property that measures eight feet by eight feet with a height of eight feet." He also notes that "*there are no other locations where an accessory structure for the purpose of storing personal belongings could be placed and meet the location requirements for accessory structures.*" The construction follows all four rules that Nick outlines in his letter and also follows the proposed site plan approved in his letter.

This minor modification is in no way impacting the development plan or impeding on my neighbors, it is simply making my house more functional for use while maintaining all original and approved design elements. The original design has offered no outdoor storage of any sort. Because I am responsible for maintaining my part of Jefferson Walkway and my part of the sidewalk, I need, for example, a place to store shovels to shovel snow as a free community service. I have bicycles instead of cars, synonymous with the development plan's intent, seeking residents who are inclined to walk or bike instead of drive short distances. These bikes need a safe place to be stored. I have a hose to water the native plants along the public Jefferson Walkway, and tools to work on my bicycles in order to avoid driving. These items need a home, and my house doesn't have a sufficient closet let alone a basement or attic or mudroom. I work hard to maintain my landscaping and keep the sidewalk and Walkway free of their constant onslaught of litter, and simply seek a small place to store things that allow me to fit into this neighborhood in line with its original intent, which I greatly respect and which was a contributing factor to why I bought this property.

While the other Jefferson Walkway owners have enclosed yards where they can store anything, the entirety of my property is visible to the public sidewalk and is street-facing, thus eliminating my ability to just keep anything outside safely. People experiencing homelessness and addiction in addition to folks that are just a little too curious continuously make us feel unsafe. This accessory structure prevents that, offering safekeeping of valuables, hopefully eliminating unsafe circumstances and theft, and also offers the slightest bit of added privacy and security.

I pay to maintain Jefferson Walkway although I do not even have private access to the Walkway. Every home on Jefferson Walkway except mine and the other end home has its sole entry from the Walkway. Additionally, the houses to the south of mine—neither of which pay to maintain the Walkway—have their entries from the sidewalk, yet don't maintain it. In fact, one of those houses has its *only* access from the Walkway. Therefore, I pay to maintain the Walkway *without* having a gate to use it, while other houses have their *only* entrance on the Walkway yet don't maintain or pay for it. I'm okay with this, bought into it, and am considerate of the neighbors and willing to do this to foster healthy change in neighborhood. I have the growth of Central Ninth in mind and have been working to foster community and local economic development while maintaining the sense of congruency.

Additionally, I have been transparent through the process of building my small 8x8x7.5' structure, withholding no information and without misleading information. I need it for a functional and practical home lent by technical and permitting considerations. I simply seek the same utility that is conferred on the other homes that were approved alongside mine.

I did go through due process in speaking with seven different folks at the Salt Lake City Planning Division, including the Planning Director who himself offered a letter of approval in accordance with city ordinance 21A.55.100. In addition I spoke with zoning and permitting. The information I provided wasn't meant to be misleading but as comprehensive as I could provide. I took a tape measure outside and measured and annotated everything on my original site plan. I spent an enormous amount of time, money, and

unpaid days off from work to ensure I am doing everything correct with this construction. I promise, I did everything I knew to do, and didn't start construction until I'd crossed my t's and dotted my i's.

Attached (site plan 830 S. Jefferson.pdf) is an updated and to-scale drawing of the site plan, including the shed that has been there since mid August, though it isn't "in position" because it needs to be sided before being placed in the right spot. I've also included an elevation drawing (elevation drawing 830 S. Jefferson.jpg)

I kindly invite any interested city officials to come by my house for a tour and to discuss any concerns or questions, and to know that I only have the best and most sincere intentions for the community in mind, including the intent for the planned development. I'm sincerely appreciative for the volunteer efforts of the Planning Commission and for the hard work of Nick, Greg, Ken, and the rest of the folks in the City and County Building. I will continue to be available to discuss anything with anyone. I hope I've answered any questions and eased any concerns anyone may have, and I look forward to having a fair opportunity to turn my first house into my first home.

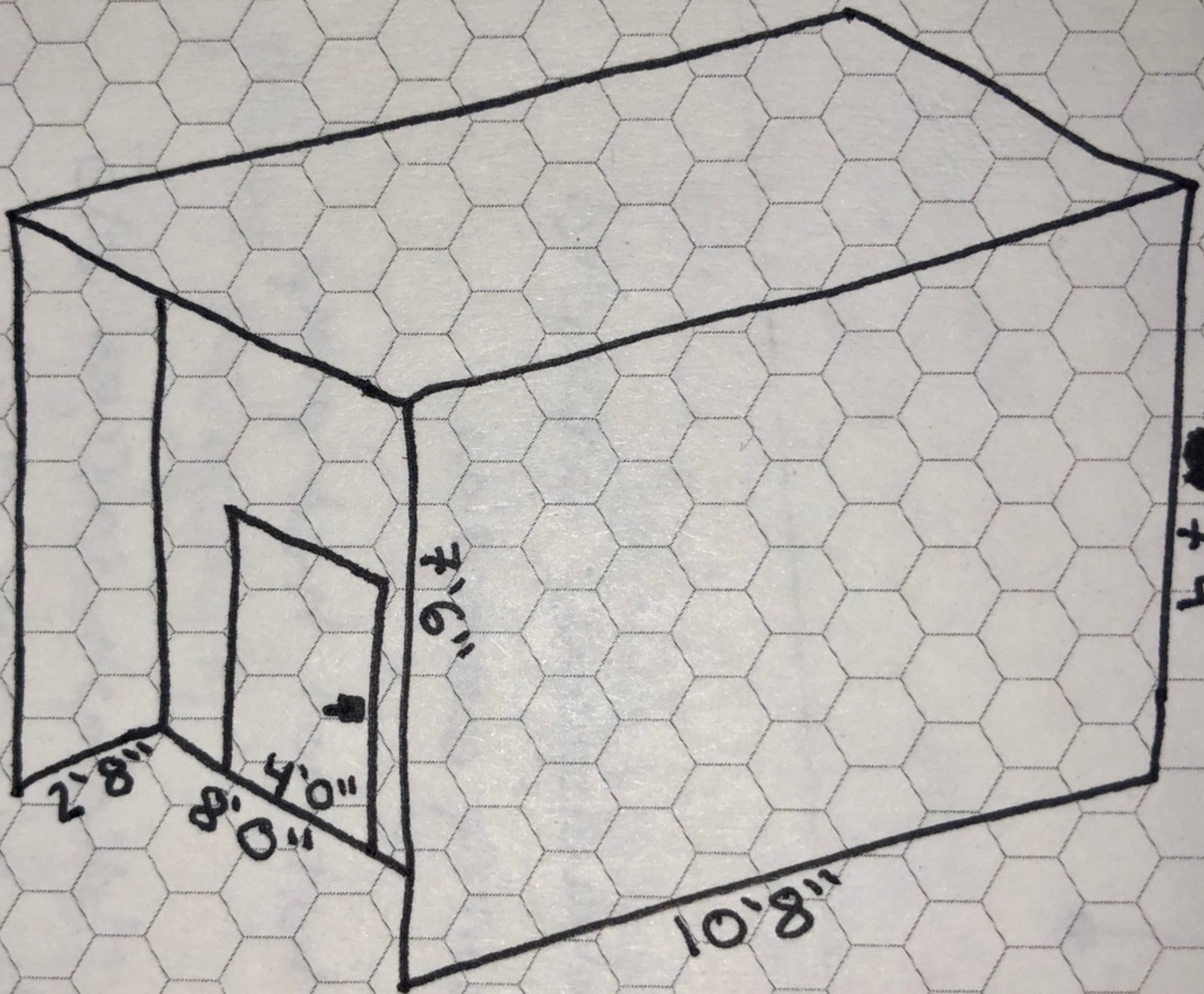
Sincerely,

A handwritten signature in black ink, appearing to read "Brody Leven". The signature is written in a cursive style with a long horizontal stroke at the end.

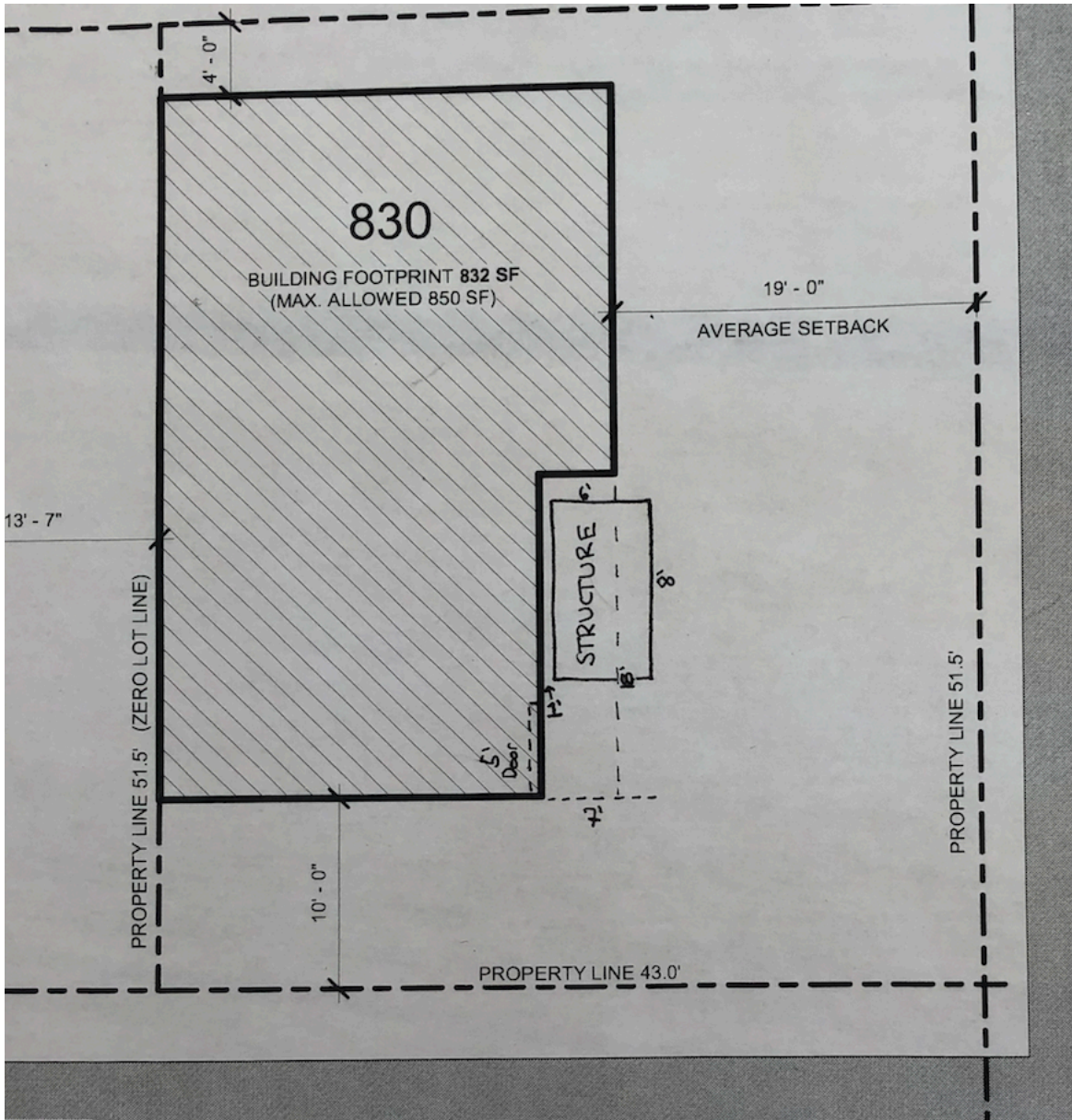
Brody Leven

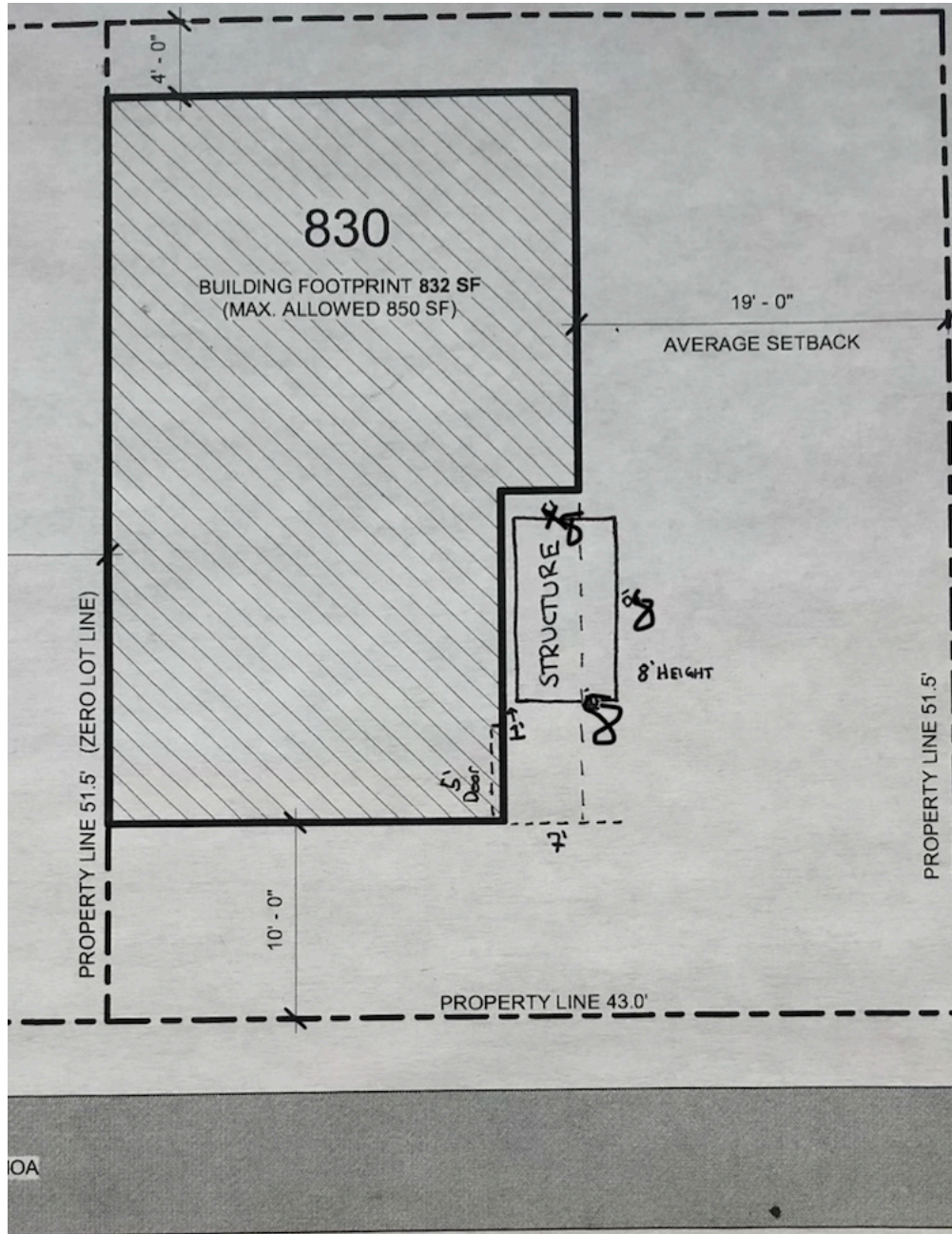








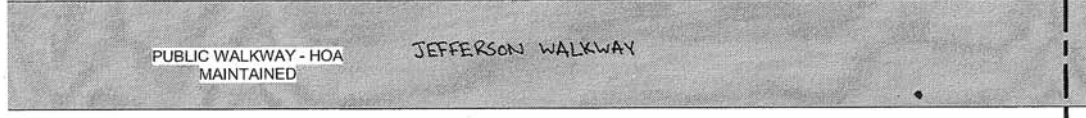
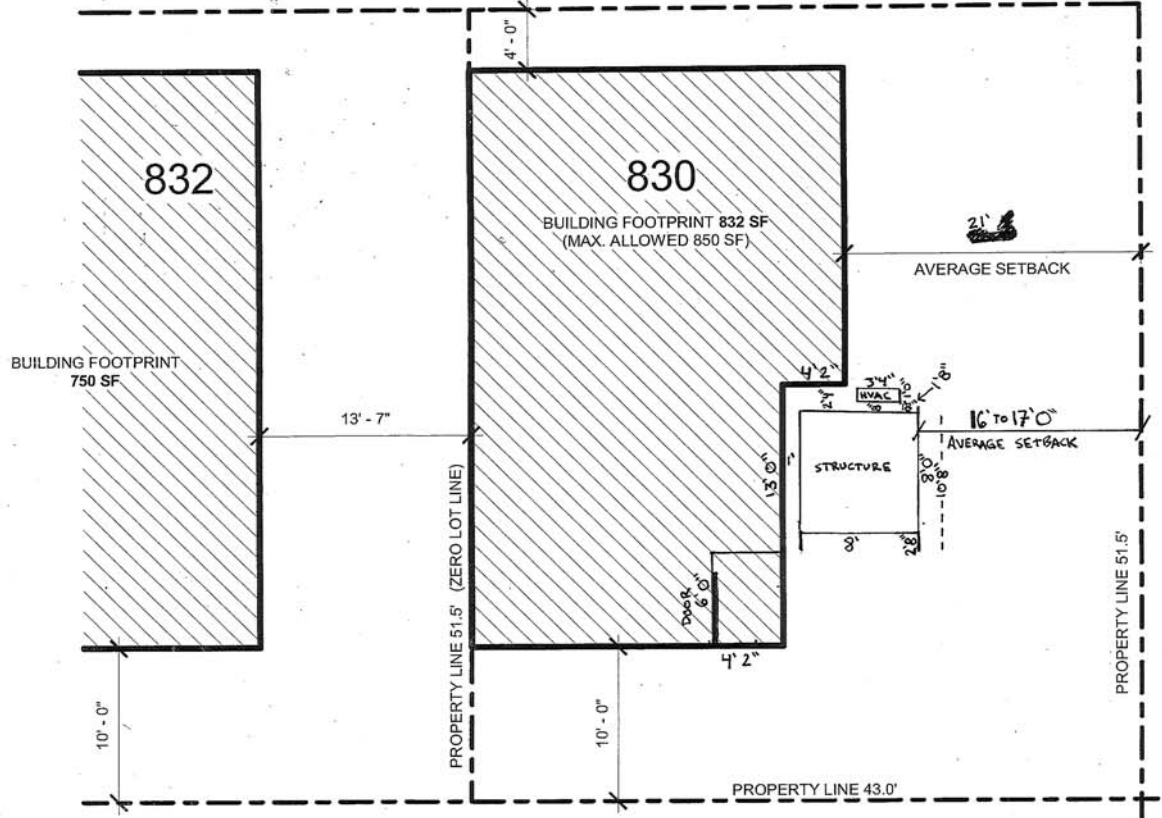
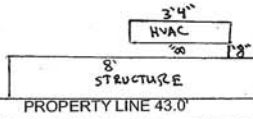




FB-UN1

NOTE:  
THIS SITE PLAN IS SCHEMATIC, PLEASE REFER  
TO OFFICALLY RECORDED GENERAL P.U.D.  
STREET MAP AND SITE PLAN FOR INDIVIDUAL  
ADDRESSES, SETBACKS AND UTILITY  
PLACEMENT, ETC.

(2X SCALE)  
CLOSE-UP HVAC



1 SITE PLAN

SCALE: 1/8" = 1'-0"

0' 2' 4' 8' 16' 24'

24





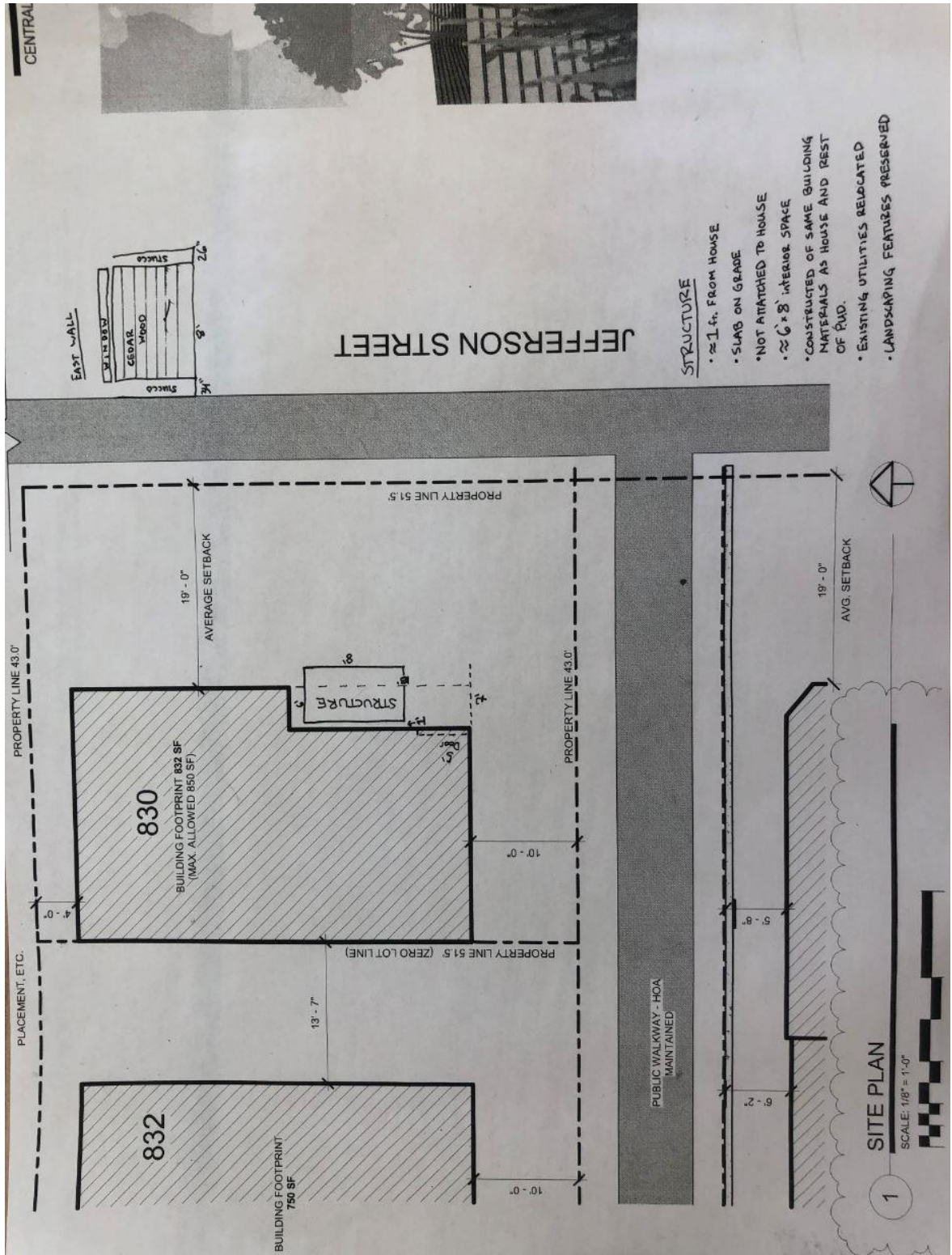


# ATTACHMENT C: ZONING MAP

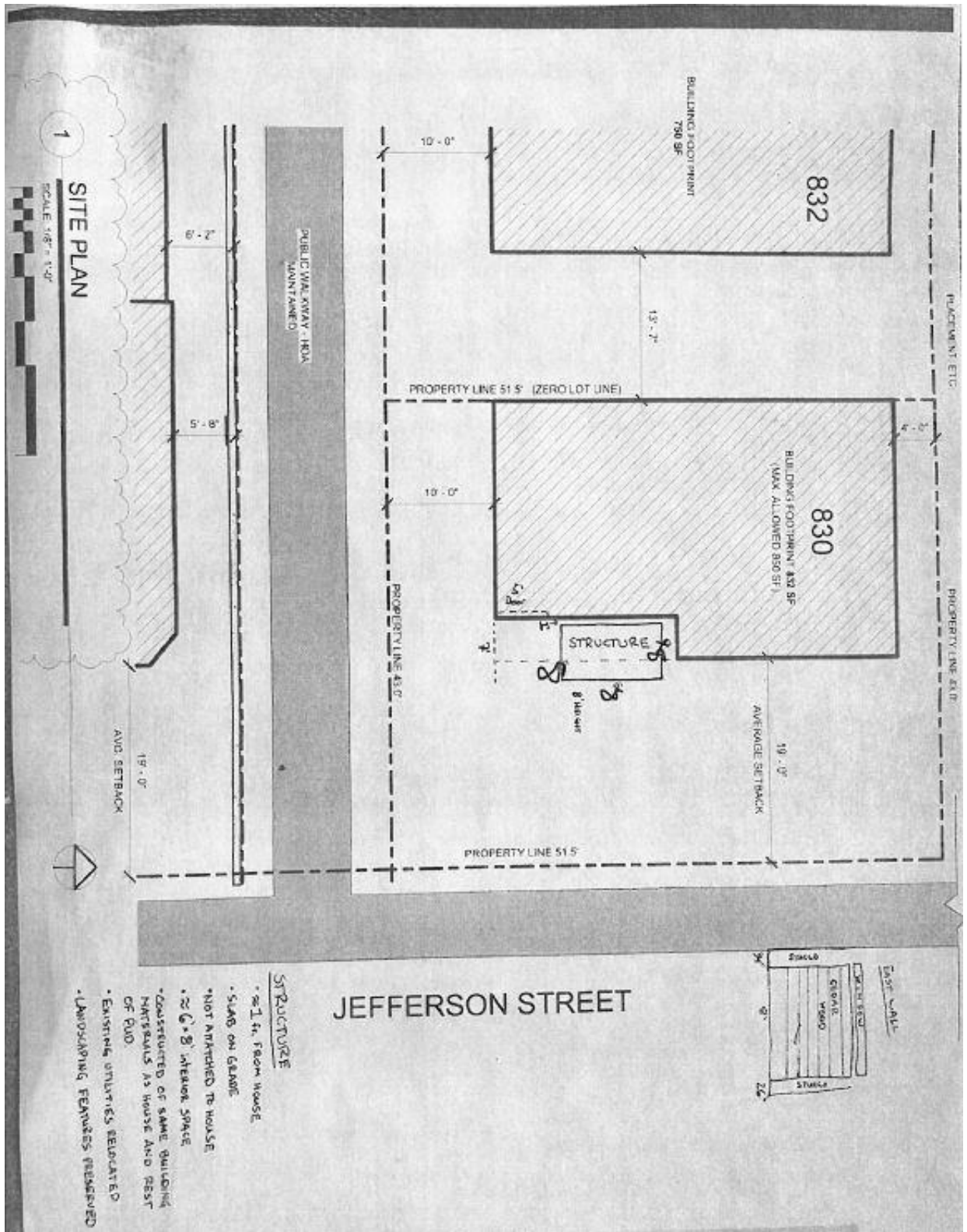




# ATTACHMENT D: ORIGINAL MINOR MODIFICATION SITE PLAN



# ATTACHMENT E: APPROVED MINOR MODIFICATION SITE PLAN AND APPROVAL LETTER





June 28, 2018

Brody Levan  
[REDACTED]

**RE: Minor modification to PLNPCM2015-00801 Jefferson Walkway Planned Development**

Dear Mr. Levan:

On June 21, 2018 you requested a minor modification to the above referenced planned development to approve an accessory structure on your property located at 830 South Jefferson Street. In accordance with city ordinance 21A.55.100, the Planning Director may make minor modifications, including the construction of accessory structures, to approved planned development when a modification is necessary in light of technical or engineering considerations. You proposed to build a storage container in the corner side yard of the property that measures eight feet by eight feet with a height of eight feet.

The original intent of the planned development was to create a cottage style development with homes that fronted on the Jefferson Walkway and that the homes along the walkway front on the walkway. As a result, there are no other locations where an accessory structure for the purpose of storing personal belongings could be placed and meet the location requirements for accessory structures.

The proposed design and location of the accessory structure would result in the least impact to the original intent of the planned development and the minimum necessary to overcome the difficult identified above. Therefore, the proposed location of the accessory structure is approved and subject to the following conditions:

1. The structure shall be no larger than eight feet wide, eight feet in length, and eight feet in height;
2. The structure shall be located as indicated in the attached site plan;
3. The structure is limited in use to storage of personal items; and
4. The approval is limited to what is described on the attached plans.

A copy of this letter has been saved in the electronic file for PLNSUB2015-00801 for future reference. If you have any questions pertaining to this matter, please feel free to contact me at 535-6173.

Sincerely,

Handwritten signature of Nick Norris in blue ink.

Nick Norris AICP  
Planning Director

Enclosure

cc: Project file

# ATTACHMENT F: ORIGINAL PLANNED DEVELOPMENT APPROVAL AND SITE PLAN

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January 28, 2016

Garth Hare  
Benchmark Modern

RE: Record of Decision for Petition PLNSUB2015-00801 and PLNSUB2015-00919 regarding Planning Commission approval of a residential planned development and preliminary subdivision amendment for property located at approximately 830-836 South Jefferson Street and 833-839 South 200 West Street, Salt Lake City, Utah.

Dear Mr. Hare:

This letter is the Record of Decision relative to Petition No. PLNSUB2015-00801 and PLNSUB2015-00919 regarding a residential planned development and preliminary subdivision amendment for property located at approximately 830-836 South Jefferson Street and 833-839 South 200 West Street, Salt Lake City, Utah. The Salt Lake City Planning Commission heard this petition on January 27, 2016, and made a decision to approve the request with the following conditions:

1. Unless modified by the Planning Commission, the applicant shall comply with all applicable Department or Division comments attached to this staff report.
2. Applicant may reduce the rear or side yard setback of the cottage development to 0'-0" as illustrated in Attachment D – Building, Elevation & Site Plans.
3. Development may exceed the maximum open space ratio for cottage development as illustrated in Attachment D – Building, Elevation & Site Plans.
4. Applicant shall remove the common area from the west side of Lot 1, and place the cottage on Lot 1 at the required maximum front yard setback of 10'-0".
5. Applicant may reduce the minimum lot size for cottage development as illustrated in Attachment D – Building, Elevation & Site Plans.
6. Cottage development shall comply with applicable ratio and type of building façade materials required by City Code.
7. Applicant may reduce property line setback for detached dwelling unit from 5'-0" to 4'-0", and orient the entrance of the detached dwelling unit toward the walkway rather than the alley.
8. Other than compliance with applicable setbacks, building height, and land use regulations, all design regulations for an urban house that prohibit relocation and rehabilitation of the single-family home located at 830 S Jefferson Street may be modified by staff as needed.
9. Prior to final approval, staff shall review a final landscape plan including tree inventory and preservation plan.
10. To ensure the exterior lighting is adequate for both private and public uses—while complimenting the architectural styles featured within the development—applicant shall submit all exterior light fixtures and lighting study for staff review prior to final approval. Light fixtures should include sufficient shielding to prevent light glare and pollution. Use of low-powered decorative, accent, and landscape lighting that compliments architectural design is encouraged.
11. Consistent with the preliminary plat shown in Attachment B, which includes reduced lot sizes and lots accessible from private common space, applicant shall submit a final plat to the Planning Division within 18 months from the date of this preliminary subdivision approval.
12. Final approval authority for the development shall be delegated to Planning Division staff based on the applicant's compliance with the standards and conditions of approval as noted within this report.

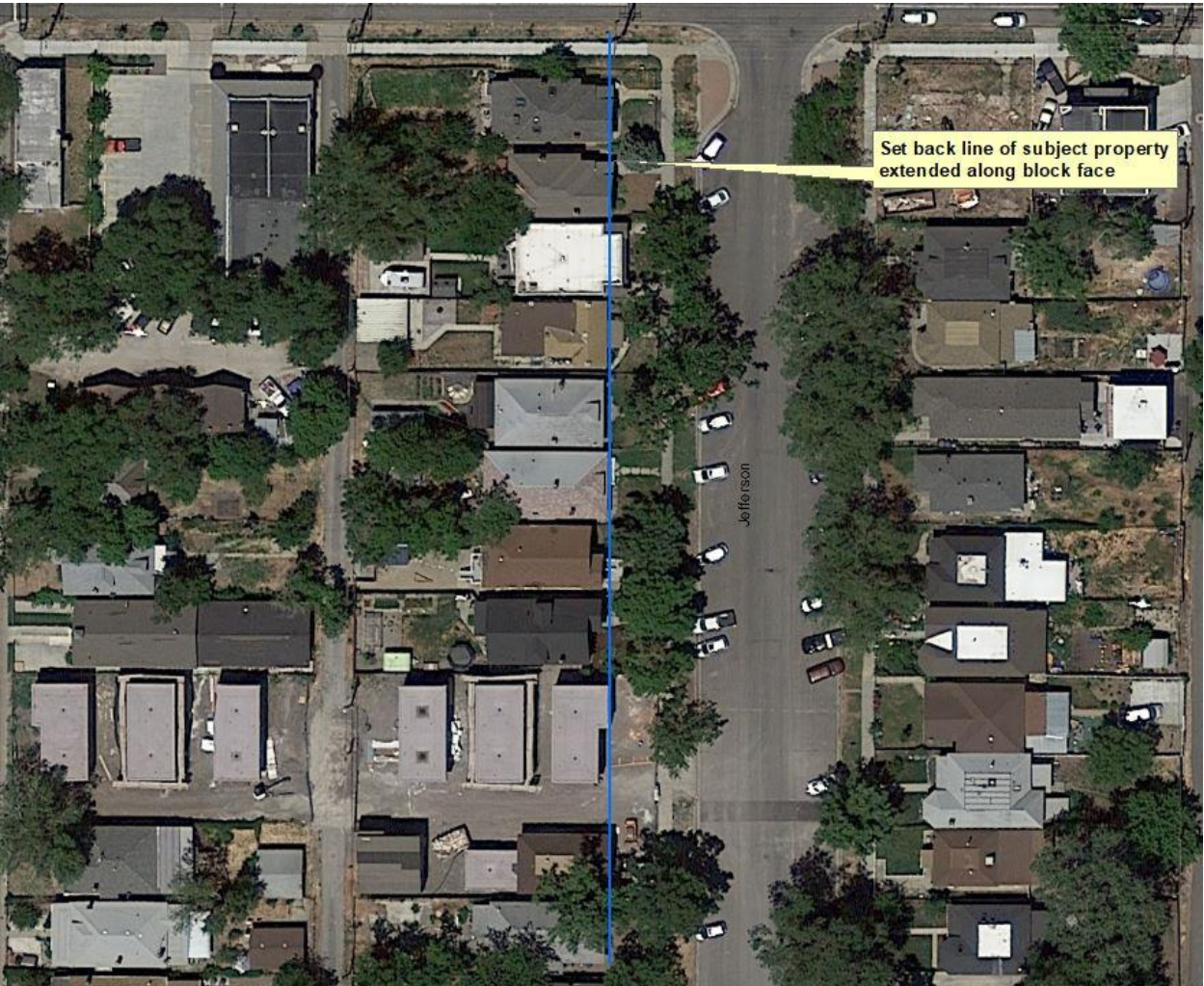


For your information, there is a ten (10) day appeal period from the date of this letter. This appeal period is required by the City's Zoning Ordinance and allows time for any affected property owner to protest the approval, if they so choose.

An approval for a planned development expires in twelve (12) months from the date of this Record of Decision, unless a building permit has been issued or complete building plans have been submitted to the division of building services and licensing. Approval of a preliminary subdivision amendment expires eighteen (18) months from the date of this Record of Decision. The planning commission may grant an extension of a planned development for up to one additional year when the applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact. Extension requests must be submitted prior to the expiration of the planned development approval.

If you have any questions, please contact Michael Maloy at (801) 535-7118 or at [michael.maloy@slcgov.com](mailto:michael.maloy@slcgov.com).

## **ATTACHMENT G: BLOCK FACE AERIAL PHOTOGRAPHS**







## **ATTACHMENT H: PUBLIC COMMENTS**

## Norris, Nick

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**From:** Omar Poole [REDACTED]  
**Sent:** Saturday, September 8, 2018 3:57 PM  
**To:** Norris, Nick  
**Subject:** 830 Jefferson Street Shed

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Nick,

I have heard that there is going to be a city council meeting in which this shed at 830 S Jefferson St will be approved or denied. I live two houses down from 830 at 822 and I really dont think its should be approved to move forward. The resident knew what they were buying when they bought at Jefferson Walkway and if it didnt fit their needs they should have not purchased the home. As a resident myself I dont think the city would approve my request to build in the front of my house fronting the street and I dont think the case should be any different because the home is smaller or is on a smaller plot. Looking at it aesthetically it does not fit the neighborhood and is not cohesive. I also worry about security as the shed fronts the street and sidewalk and would be an easy target for theft, vandalism and squatting which are all not uncommon in our neighborhood.

Thank you for reading my concerns,

--

- Omar Poole

**Norris, Nick**

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**From:** Steve Boulay [REDACTED]  
**Sent:** Friday, August 24, 2018 10:49 AM  
**To:** Norris, Nick  
**Cc:** Haines Matt; [REDACTED] Steve Boulay  
**Subject:** Jefferson Parkway

Dear Mr. Norris:

I am sending this e-mail on behalf of three of the six owners of homes on Jefferson Walkway and members of the HOA for that entity. I have not included the others as I have not spoken to them directly.

I want to express our concern that an ancillary building being built on Brody Levin's property does not comport with the size and visual representations we were given as individual owners when he asked for our support in building this project nor with the documents and letter he presented to us noting that you had the sole authority on the part of the City to approve such a structure and did so enthusiastically.

We are concurrently reaching out to Mr. Levin directly to discuss this issue and would like to ask you not to approve any further work and/or modifications to the project until we can be formally involved as the HOA for the Jefferson Walkway development.

Please let me know that you have received our request and what we might expect as next steps from your department. We will continue speaking directly with Mr. Levin as well as our goal is an amicable resolution of this issue.

Sincerely,

Steve Boulay  
[REDACTED]

Steve Boulay  
MagicSpace Entertainment, Inc  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[www.magicspace.net](http://www.magicspace.net)

## Norris, Nick

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**From:** Garth [REDACTED]  
**Sent:** Thursday, August 23, 2018 8:43 PM  
**To:** Norris, Nick  
**Subject:** Re: 830 Jefferson

Nick,

Thanks for the response. I'm sure you will be hearing from the homeowners on Jefferson.

I think you should know that Mr. Leven has a dedicated room in his dream home for his fancy gear. This shed that he so desperately needs is just overflow storage.

I discussed some storage solutions with him that stayed within the confines of the setbacks and were aesthetically pleasing but he just wanted more.

The fact that he submitted incorrectly scaled drawings that made his shed look less obtrusive and then built a structure larger than the approved size really speaks to his character.

Once the appeal comes, what happens?

Garth  
[REDACTED]

On Aug 23, 2018, at 4:07 PM, Norris, Nick <[Nick.Norris@slcgov.com](mailto:Nick.Norris@slcgov.com)> wrote:

Thanks Garth. I went out and visited the site on Monday to see what was going on. I have been working with the property owner on options to address the issue. I'll keep you posted. Feel free to direct neighbors to me.

NICK NORRIS  
Planning Director

PLANNING DIVISION  
COMMUNITY *and* NEIGHBORHOODS  
SALT LAKE CITY CORPORATION

TEL 801-535-6173  
Email [nick.norris@slcgov.com](mailto:nick.norris@slcgov.com)

[WWW.SLC.GOV/PLANNING](http://WWW.SLC.GOV/PLANNING)

**From:** Garth Hare [REDACTED]  
**Sent:** Thursday, August 23, 2018 3:15 PM  
**To:** Norris, Nick <[Nick.Norris@slcgov.com](mailto:Nick.Norris@slcgov.com)>; Utley, Kort [REDACTED]  
**Subject:** 830 Jefferson

Nick,



Thank you for the phone call the other day. Attached are a few photos of the shed that is currently being built. Based on your approval letter to Mr. Leven, the shed is not in compliance. It looks to be bigger than 8x8.

I painstakingly developed this project over four years of planning, along with Kort Utley from the RDA to complete the vision of the city.

I understand that Mr. Leven had approached you for the approval of the shed. I think Mr. Leven misrepresented his intentions and I think that caused for the review process to be compromised. According to the homeowners he used your letter and approval to manipulate some of the HOA members to approve via email without a formal vote.

The neighbors on Jefferson street have expressed their own concern with the building of the shed in the front yard. I have been fielding calls today and I understand their concerns.

I appreciate you taking the time to address some of my concerns.

Garth Hare  
benchmark modern



<image001.jpg>

<image002.jpg>

<image003.jpg>

Sent from my mobile office  
Garth Hare



**ATTACHMENT I: JANUARY 26, 2016 PLANNING  
COMMISSION STAFF REPORT**

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