

Mayor
Kenneth Romney

**City Engineer/ Land
Use Administrator**
Kris Nilsen

**City Recorder/
Community
Development**
Cathy Brightwell

WEST BOUNTIFUL PLANNING COMMISSION

550 North 800 West
West Bountiful, Utah 84087

Phone (801) 292-4486
FAX (801) 292-6355
www.WBCity.org

Chairman
Denis Hopkinson

Commissioners
Laura Charchenko
Mike Cottle
Alan Malan
Corey Sweat
Dennis Vest, Alternate

**THE PLANNING COMMISSION WILL HOLD A REGULAR
MEETING AT 7:30 PM ON TUESDAY, OCTOBER 27, 2020**

Meeting will be held exclusively via Zoom (see info below)

The Mayor and the Planning Commission Chair have determined that due to the current COVID-19 pandemic and the physical distancing required to prevent the spread of infection, public meetings present a substantial risk to the health and safety of those who may be present at the meetings. That risk can be substantially mitigated by holding this meeting through electronic means that allow for public participation without an anchor location.

Prayer/Thought by Corey Sweat

1. Accept Agenda.
2. Consider Small Plat Subdivision Request for Overton at 1014 W Pages Lane.
3. Discuss Historic Overlay District Regulations.
4. Staff report.
5. Consider Meeting Minutes from October 13, 2020.
6. Adjourn.

Join Zoom Meeting

<https://us02web.zoom.us/j/83398648358>

Meeting ID: 833 9864 8358

One tap mobile

+14086380968,,83398648358# US (San Jose)

+16699006833,,83398648358# US (San Jose)

Dial by your location

+1 408 638 0968 US (San Jose)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 312 626 6799 US (Chicago)

+1 646 876 9923 US (New York)

+1 301 715 8592 US (Germantown)

This notice has been sent to the Clipper Publishing Company and was posted on the State Public Notice Website and the City's website on October 23, 2020 by Cathy Brightwell, City Recorder.

MEMORANDUM



TO: Planning Commission

DATE: October 22, 2020

FROM: Duane Huffman, City Administrator

RE: **Minor Subdivision – Overton – 1014 W 1600 N**

The property located at 1014 W 1600 N has applied to be divided into two parcels based on a divorce decree and quiet title order. West Bountiful Municipal Code 16.16.020.F allows a subdivider to present the survey map directly to the city council following a recommendation by the planning commission.

Background

This property was approved for a subdivision by the city in 2016 (Olsen Farms 8). However, the property owner never recorded the approved plat, and that subdivision approval has subsequently expired.

The property was later involved in an ownership dispute, and court order dated July 7, 2019 requires the division of the property as shown on the proposed survey map. Even with a court order, property owners are required to follow municipal subdivision requirements.

Staff Analysis

The proposed minor subdivision appears to be consistent with West Bountiful subdivision requirements. Public improvements that were required in 2016 are now in place.

During the court process it was discovered that the descriptions from the survey map had a few minor issues. Included is document with the updated descriptions. The south parcel is labeled as the "house property" on this document.

It is likely that the two parcels will be further subdivided in the future.

Staff recommends that the planning commission forward a positive recommendation for approval to the city council.



PRELIMINARY PLAT SUBDIVISION APPLICATION

West Bountiful City

550 N 800 W
West Bountiful, UT 84087
(801) 292-4486
Fax: (801) 292-6355
www.wbcity.org

DATE: 10/14/2020

SUBDIVISION NAME:

SUBDIVISION LOCATION: 1014 W 1600 N West Bountiful UT 84087

PARCEL NUMBER: 06-011-0146 ZONE: R110 SIZE OF PARCEL: 2.62 Acres

Property Owner(s): Beverly Olsen Estate - Amanda Overton

Developer: Owner

Address: 1014 W 1600 N West Bountiful UT 84087

Primary phone: _____ Cell phone: 801-631-5304

E-mail address: Amanda Overton @ ymail com

Property Owner's Statement:

I (We), the owner(s) of the above described parcel(s) hereby authorize Amanda Overton the Developer, to act for and on behalf of the Owner(s) in all appearances before the public bodies, agencies or representatives necessary to execute the purpose of subdividing the property.

Amanda A

Property Owner Signature

Property Owner Signature

THIS APPLICATION IS CONSIDERED COMPLETE WHEN THE REQUIREMENTS OF WBMC 16.16.020 ARE MET.

FOR OFFICIAL USE ONLY

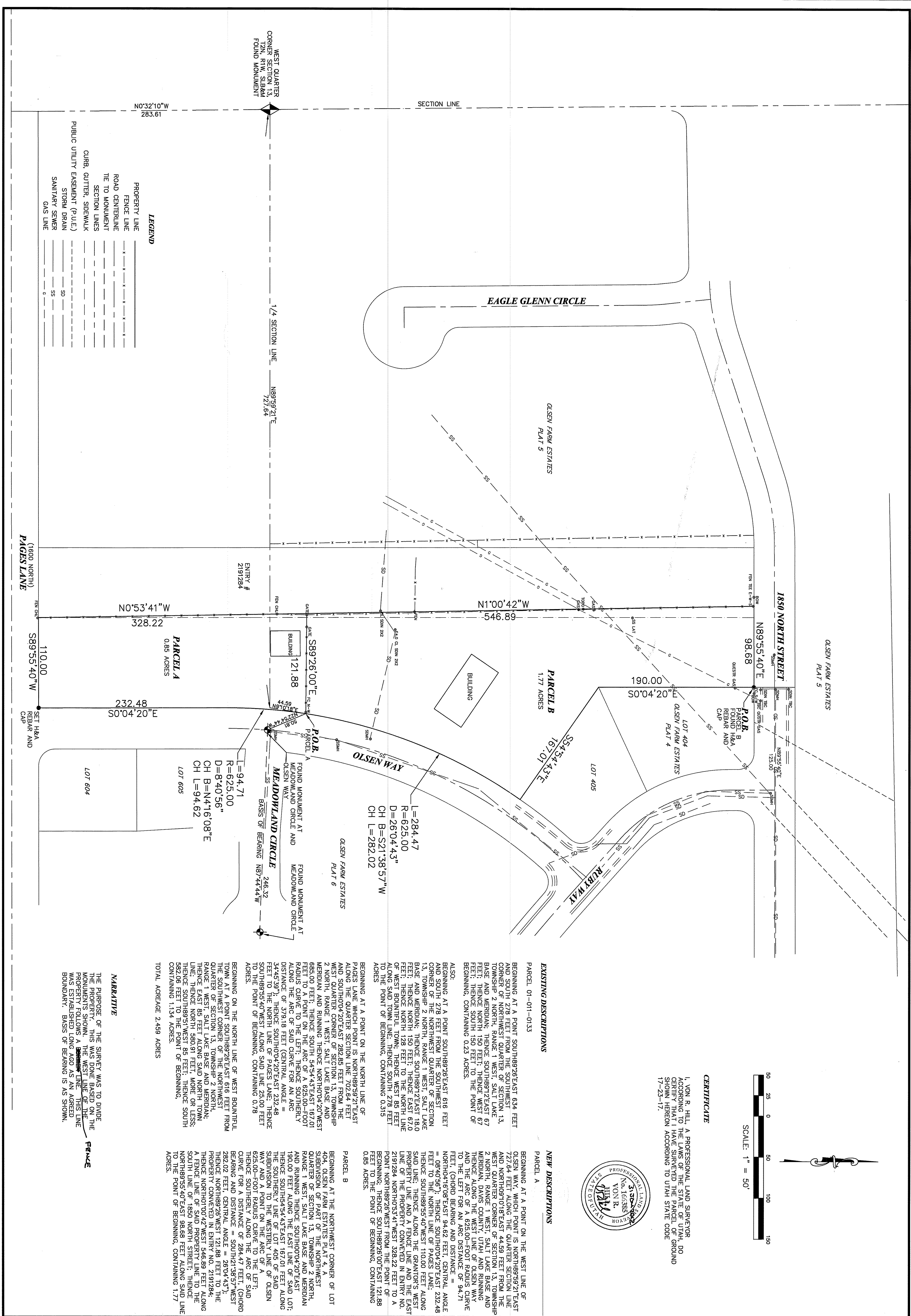
Conceptual Site Plan Review (\$100 per submittal):

Fee pd: \$ 100.00 Date pd: 10/16/20 Initial: MT Date approved: _____

Preliminary Plan Review (\$50/lot + \$100/acre or part) due with submittal:

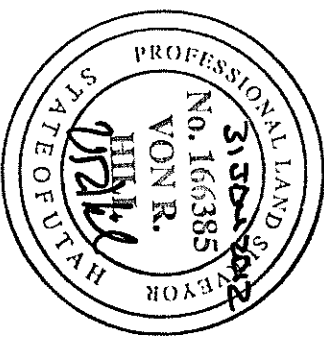
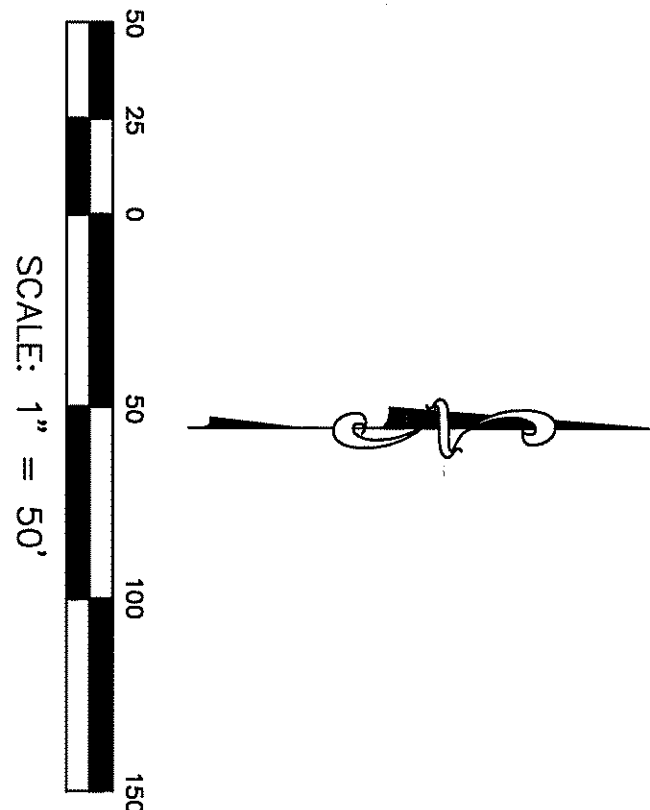
Fee pd: \$ _____ Date pd: _____ Initial: _____ Date approved: _____

Updated February 2017



CERTIFICATE

I, VON R. HILL, A PROFESSIONAL LAND SURVEYOR
ACCORDING TO THE LAWS OF THE STATE OF UTAH, DO
CERTIFY THAT I HAVE SURVEYED THE PARCEL OF GROUND
SHOWN HEREON ACCORDING TO UTAH STATE CODE
17-23-17.



SURVEY REQUESTED BY
TERRY OLSEN

LOCATED IN THE NW QUARTER OF SECTION 13, T2N, R1W, SLB&M
BOUNTIFUL CITY, DAVIS COUNTY, UTAH

H ***HILL & ARGYLE, Inc.***
A *Engineering and Surveying*
181 North 200 West, Suite #4, Bountiful, Utah 84010
(801) 298-2236 Phone, (801) 298-5983 Fax

Received
MAR - 8 2012
06-011 #616D

PROJECT NO.	Boundary	DRAWING NAME	SHEET 1 OF 1	DRAWN SHM	DATE 1/31/12
				APPROVED VRH	DATE 1/31/12
				REVISED	DATE

LAND BOUNDARY DESCRIPTIONS

ENTELLUS PROJ. #1120027

PREPARED November 8, 2019 by JRC

HOUSE PROPERTY

BEGINNING AT A POINT ON THE WEST LINE OF OLSEN WAY, WHICH POINT IS NORTH89°59'21"EAST 727.64 FEET ALONG THE QUARTER SECTION LINE AND NORTH09°10'18"EAST 44.59 FEET FROM THE WEST QUARTER CORNER OF SECTION 13, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DAVIS COUNTY, UTAH AND RUNNING THENCE **SOUTHERLY** ALONG THE WEST LINE OF OLSEN WAY AND THE ARC OF A 625.00-FOOT RADIUS CURVE TO THE LEFT FOR AN ARC DISTANCE OF 94.71 FEET, (CHORD BEARING AND DISTANCE = **SOUTH04°16'08"WEST** 94.62 FEET, CENTRAL ANGLE = 08°40'56"); THENCE SOUTH0°04'20"EAST 232.48 FEET TO THE NORTH LINE OF PAGES LANE; THENCE SOUTH89°55'40"WEST 110.00 FEET ALONG SAID LINE; THENCE ALONG THE GRANTOR'S WEST PROPERTY LINE AND A FENCE LINE AND THE EAST LINE OF THE PROPERTY CONVEYED IN ENTRY NO. 2191284

NORTH0°53'41"WEST 328.22 FEET TO A POINT NORTH89°26'WEST FROM THE POINT OF BEGINNING; THENCE SOUTH89°26'00"EAST 121.88 FEET **ALONG A FENCE** TO THE POINT OF BEGINNING, CONTAINING 0.85 ACRES.



FARM PROPERTY

BEGINNING AT THE NORTHWEST CORNER OF LOT 404, OLSEN FARM ESTATES PLAT 4, A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, **DAVIS COUNTY, UTAH**, AND RUNNING THENCE SOUTH00°04'20"EAST 190.00 FEET ALONG THE EAST LINE OF SAID LOT; THENCE SOUTH54°54'43"EAST 167.01 FEET ALONG THE SOUTHERLY LINE OF LOT 405 OF SAID SUBDIVISION TO THE WESTERLY LINE OF OLSEN WAY AND A POINT ON THE ARC OF A 625.00-FOOT RADIUS CURVE TO THE LEFT; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 284.47 FEET, (CHORD BEARING AND DISTANCE = SOUTH21°38'57"WEST 282.02 FEET, CENTRAL ANGLE = 26°04'43"); THENCE **NORTH89°26'WEST** 121.88 FEET **ALONG A FENCE** TO THE PROPERTY CONVEYED IN ENTRY NO. 2191284; THENCE NORTH01°00'42"WEST 546.89 FEET ALONG A FENCE LINE OF SAID PROPERTY LINE TO THE SOUTH LINE OF 1850 NORTH STREET; THENCE NORTH89°55'40"EAST 98.68 FEET ALONG SAID LINE TO THE POINT OF BEGINNING, CONTAINING 1.77 ACRES.

1470 South 600 West
Woods Cross, Utah
84010

Tel. 801.298.2236
Web www.entellus.com



E 3173642 B 7307 P 1013-1024

RICHARD T. MAUGHAN

DAVIS COUNTY, UTAH RECORDER

7/18/2019 3:51:00 PM

FEE \$40.00 Pgs: 12

DEP eCASH REC'D FOR BENNETT TUELLER JOHNSON

Benjamin D. Johnson (10275)
Ryan M. Merriman (14720)
BENNETT TUELLER JOHNSON & DEERE
3165 East Millrock Drive, Suite 500
Salt Lake City, Utah 84121
(801) 438-2000
ben.johnson@btjd.com; rmerriman@btjd.com
*Attorneys for Amanda Overton,
in her capacity as Personal Representative
of the Estate of Beverly Olsen*

IN THE SECOND JUDICIAL DISTRICT COURT OF DAVIS COUNTY

STATE OF UTAH

AMANDA OVERTON, in her capacity
as Personal Representative of the Estate
of Beverly Olsen,

Plaintiff,

vs.

CHREE MARTIN, an individual, and
TERRENCE OLSEN, an individual,

Defendants.

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER ON
PLAINTIFF'S MOTION FOR PARTIAL
SUMMARY JUDGMENT AND
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

(Parcel No. 06-011-0146)

Judge Michael Edwards

Case No. 180700272

This matter came on for hearing on June 27, 2019 at the hour of 2:00 p.m. on Plaintiff's Motion for Partial Summary Judgment ("Plaintiff's Motion") and Defendants' Motion for Summary Judgment ("Defendants' Motion"). In Plaintiff's Motion, Plaintiff sought summary judgment on its First Cause of Action for Quiet Title. In Defendants' Motion, Defendants sought summary judgment on Plaintiff's First Cause of Action for Quiet Title, Fifth Cause of Action for Fraudulent Transfer, and Sixth Cause of Action for

Unjust Enrichment.

At the hearing, Plaintiff Amanda Overton, in her capacity as Personal Representative of the Estate of Beverly Olsen, and Defendants Chree Martin and Terrence Olsen, were represented by and through counsel. Having heard the arguments of counsel, having reviewed Plaintiff's Motion and Defendants' Motion, the timely filed supporting memoranda, and for good cause otherwise appearing, the Court makes the following Findings of Fact, Conclusions of Law and Order granting Plaintiff's Motion and denying Defendants' Motion.

I.

FINDINGS OF FACT

1. On July 19, 2012, Beverly Olsen ("Beverly") filed for divorce from Terrence Olsen ("Terry") in the Second Judicial District Court, Case No. 124701176 (the "Divorce Action").

2. A few days after the filing of the petition for divorce, Beverly and Terry met and discussed a division of their assets (the "Divorce Meeting"), including the real property and improvements located at or about 1014 West 1600 North, West Bountiful, Davis County, Utah (the "Property"), more fully described as follows:

BEG AT A PT ON THE W LINE OF OLSEN WAY, WH PT IS N
89°59'21" E 727.64 FT ALG THE 1/4 SEC LINE & N 09°10'18" E 44.59
FT FR THE W 1/4 COR OF SEC 13-T2N-R1W, SLB&M; & RUN TH
ALG THE W LINE OF OLSEN WAY & THE ARC OF A 625.00 FT RAD
CURVE TO THE LEFT FOR AN ARC DIST OF 94.71 FT, (CHORD
BEARING & DIST = S 04°16'10" W 94.62 FT, CENTRAL ANGLE =

08°40'52"); TH S 0°04'20" E 232.48 FT TO THE N LINE OF PAGES LANE; TH S 89°55'40" W 110.00 FT ALG SD LINE; TH ALG THE GRANTOR'S W PPTY LINE & A FENCE LINE & THE E LINE OF THE PPTY CONV IN E# 2191284 N 0°53'41" W 328.22 FT ALG A FENCE LINE OF SD PPTY LINE; TH N 01°00'42" W 546.89 FT ALG A FENCE LINE OF SD PPTY LINE TO THE S LINE OF 1850 NORTH STR; TH N 89°55'40" E 98.68 FT ALG 1850 NORTH STR; TH S 00°04'20" E 190.00 FT ALG THE E LINE OF SD LOT; TH S 54°54'43" E 167.01 FT ALG THE S'LY LINE OF LOT 405 OF SD SUB TO THE W'LY LINE OF OLSEN WAY & A PT ON THE ARC OF A 625.00 FT RAD CURVE TO THE LEFT; TH S'LY ALG THE ARC OF SD CURVE FOR A DIST OF 284.47 FT, (CHORD BEARING & DIST = S 21°38'57" W 282.02 FT, CENTRAL ANGLE = 26°04'42") OF SD LINE TO THE POB. CONT. 2.622 ACRES

3. At the Divorce Meeting, Terry and Beverly agreed that the Property should be divided between them and decided that Terry would receive the northernmost 1.77 acres of the Property (the "Farm Property") and that Beverly would receive the southernmost .85 acres of the Property (the "House Property").

4. The House Property is more fully described as follows:

BEGINNING AT A POINT ON THE WEST LINE OF OLSEN WAY, WHICH POINT IS NORTH89°59'21" EAST 727.64 FEET ALONG THE QUARTER SECTION LINE AND NORTH09°10'18"EAST 44.59 FEET FROM THE WEST QUARTER CORNER OF SECTION 13, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DAVIS COUNTY, UTAH AND RUNNING THENCE ALONG THE WEST LINE OF OLSEN WAY AND THE ARC OF A 625.00-FOOT RADIUS CURVE TO THE LEFT FOR AN ARC DISTANCE OF 94.71 FEET, (CHORD BEARING AND DISTANCE = NORTH04°16'08"EAST 94.62 FEET, CENTRAL ANGLE = 08°40'56"); THENCE SOUTH 0°04'20"EAST 232.48 FEET TO THE NORTH LINE OF PAGES LANE; THENCE SOUTH89°55'40"WEST 110.00 FEET ALONG SAID LINE; THENCE ALONG THE GRANTOR'S WEST PROPERTY LINE AND A FENCE LINE AND THE EAST LINE OF THE PROPERTY CONVEYED IN ENTRY NO. 2191284 NORTH 89°26' WEST FROM THE POINT OF

BEGINNING; THENCE SOUTH89°26'00"EAST 121.88 FEET TO THE POINT OF BEGINNING, CONTAINING 0.85 ACRES.

5. The Farm Property is more fully described as follows:

BEGINNING AT THE NORTHWEST CORNER OF LOT 404, OLSEN FARM ESTATES PLAT 4, A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE SOUTH00°04'20"EAST 190.00 FEET ALONG THE EAST LINE OF SAID LOT; THENCE SOUTH54°54'43"EAST 167.01 FEET ALONG THE SOUTHERLY LINE OF LOT 405 OF SAID SUBDIVISION TO THE WESTERLY LINE OF OLSEN WAY AND A POINT ON THE ARC OF A 625.00-FOOT RADIUS CURVE TO THE LEFT; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 284.47 FEET, (CHORD BEARING AND DISTANCE + SOUTH21°38'57" WEST 282.02 FEET, CENTRAL ANGLE + 26°04'43"); THENCE NORTH89°3+'WEST 121.88 FEET TO THE PROPERTY CONVEYED IN ENTRY NO. 2191284; THENCE NORTH01°00'42"WEST 546.89 FEET ALONG A FENCE LINE OF SAID PROPERTY LINE TO THE SOUTH LINE OF 1850 NORTH STREET; THENCE NORTH 89°55'40"EAST 98.68 FEET ALONG SAID LINE TO THE POINT OF BEGINNING, CONTAINING 1.77 ACRES.

6. Terry filed a responsive pleading in the Divorce Action on or about August 31, 2012, a few weeks after the Divorce Meeting.

7. Terry and Beverly subsequently entered into a Stipulation and Property Settlement Agreement (the "Settlement Agreement") as part of the Divorce Action, with Terry signing the Settlement Agreement on or about February 26, 2013 and with Beverly signing the Settlement Agreement on or about March 25, 2013.

8. Paragraph 1 of the Settlement Agreement provides that "Petitioner and Respondent stipulate and agree that they are desirous of entering into this Stipulation and Property Settlement Agreement constituting a division of all of their respective property

rights and debts, and effecting a complete settlement of all issues of alimony, attorney's fees, court costs and other related matters."

9. Paragraph 12 of the Settlement Agreement provides that "each of the parties . . . acknowledges that he/she has entered into this Stipulation and Property Settlement Agreement with knowledge of its legal implications and consequences."

10. Paragraph 13 of the Settlement Agreement provides that "the parties each specifically acknowledge that this Stipulation and Property Settlement Agreement, taken in its entirety, is fair and reasonable and represents their desired settlement of all issues."

11. Paragraph 14 of the Settlement Agreement provides that "each of the parties shall sign all papers, documents, titles, deeds and any other document necessary to effect any of the provisions hereof."

12. Pursuant to Paragraph 6 of the Settlement Agreement, Terry and Beverly agreed that Beverly should be awarded the House Property free and clear of the claims of Terry stating that "Petitioner shall be awarded the home, kennel, garage and approximately .85 acres of land." This same paragraph awarded the Farm Property to Terry.

13. On or about April 25, 2013, a Decree of Divorce (the "Decree") was entered in the Divorce Action.

14. Paragraph 10 of the Decree states that "the parties have specifically acknowledged that the division of property . . . outlined above is fair and equitable and

that they have voluntarily entered into the Stipulation and Property Settlement Agreement upon which the Findings and Decree are based.”

15. Paragraph 12 of the Decree states that “[e]ach party is ordered to sign all papers, documents, titles, deeds and any other document necessary to effectuate any of the provisions hereof, including but not limited to the transfer of real or personal property.”

16. Paragraph 6 of the Decree awards the House Property to Beverly and the Farm Property to Terry, in fee simple title, free and clear of the claims of the other party.

17. Sometime after the Decree was entered, Terry and Beverly discovered that the Property must be subdivided to legally convey the Property as contemplated by the Settlement Agreement and Decree.

18. On November 28, 2015, Beverly died.

19. At the time of Beverly’s death, the Property had not been subdivided and the House Property had not been conveyed to Beverly.

20. After Beverly’s death, Terry claimed he was the rightful owner of the House Property.

21. Among other actions, Terry asserted ownership of the House Property by recording an “Affidavit of Identify” with the Davis County Recorder, which he understood would sever the joint tenancy of the Property and vest title in his name alone.

22. A dispute arose between Terry and other family members regarding the

ownership of the House Property after Beverly's death, with the Plaintiff and other siblings claiming that the House Property belonged to Beverly's estate, and with Defendants claiming the House Property belonged to Terry.

23. Terry claimed to be the rightful owner of the House Property upon Beverly's death based on an agreement reached with Beverly during the Divorce Meeting.

24. During the Divorce Meeting, in addition to making a division of the Property for purposes of their divorce, Terry alleges that he and Beverly also reached an agreement on how the Property would be handled at the first of their deaths.

25. Specifically, Terry alleges that during the Divorce Meeting, Beverly agreed that should she pre-decease him, that the House Property would pass to Terry on her death. Similarly, Terry alleges that during the Divorce Meeting, it was agreed that should he pre-decease Beverly, that the Farm Property would pass to Beverly on his death.

26. Terry alleges that deeds were prepared to accomplish the property division as called for in the Settlement Agreement and Decree and for the estate planning desired by him and Beverly.

27. In opposition to Plaintiff's Motion and in support of Defendants' Motion, Terry submitted three deeds which were dated on or about August 9, 2012 and signed on or about October 9, 2012.

28. One deed is a purported conveyance of the House Property from Terry and

Beverly to Beverly alone (the “First Deed”).

29. A second deed is a purported conveyance of the Farm Property from Terry and Beverly to Terry alone (the “Second Deed”).

30. And a third deed is a conveyance of the House Property from Beverly to Terry (the “Third Deed”) (the First Deed, Second Deed, and Third Deed are collectively referred to as the “Deeds”).

31. Terry alleges that the Third Deed was prepared to accomplish the estate planning agreed upon in the Divorce Meeting, and that Beverly had agreed that he could record the Third Deed—which returned the House Property back to Terry—should Beverly pre-decease him.

32. Terry alleges that a fourth deed was prepared which conveyed the Farm Property from Terry back to Beverly, should he pre-decease Beverly, but that this deed was destroyed at Beverly’s subsequent direction.

33. The Deeds themselves contain no explanation of why they are being prepared or the terms of any agreements between the parties.

34. The Deeds were dated and signed well before the Settlement Agreement between Terry and Beverly and well before the Decree was entered.

35. The Deeds were never recorded, and when Beverly died, Terry did not record the Third Deed.

36. It is undisputed that a writing does not exist stating that Beverly wanted the

House Property to pass to Terry upon her death, should she pre-decease him. The Settlement Agreement and Decree instead convey the House Property to Beverly and the Farm Property to Terry without condition.

37. On or about November 8, 2016, Amanda Overton (“Amanda”) filed a petition to be appointed the personal representative of the Estate of Beverly Olsen.

38. On December 23, 2016, Amanda caused to be recorded a lis pendens against the House Property.

39. On or about August 10, 2017, Terry conveyed the entirety of the Property, including the House Property, to Defendant Chree Martin by quitclaim deed (“Chree”).

40. It is undisputed that Chree Martin gave no consideration for the Property.

41. It is not disputed that prior to August 10, 2017, that Terry and Chree both had actual and constructive knowledge of Plaintiff’s claim to the House Property on behalf of Beverly’s estate

42. After a trial, on March 30, 2018, an order was entered appointing Amanda as the personal representative of the Estate of Beverly Olsen.

II.

CONCLUSIONS OF LAW

1. The Decree is an order of the Court and was expressly premised on the Settlement Agreement.

2. The Settlement Agreement was the final expression of Terry and Beverly regarding the intended disposition of the Property in the Divorce Action, and Terry and

Beverly agreed that the House Property was to be awarded to Beverly, free and clear of any claim of Terry.

3. The Settlement Agreement and Decree contain no provision whereby Beverly agreed that the House Property should pass to Terry should she pre-decease him.

4. Similarly, the Deeds themselves, together or individually, contain no agreement whereby the House Property would pass to Terry should Beverly pre-decease him.

5. The Decree ordered and awarded the House Property to Beverly, free and clear of the claims of Terry.

6. The Decree superseded any prior agreement of Terry and Beverly regarding any contemplated disposition of the Property.

7. Utah Code Ann. section 25-1-1 provides that “[n]o estate or interest in real property, other than leases for a term not exceeding one year, nor any trust or power over or concerning real property or in any manner relating thereto, shall be created, granted, assigned, surrendered or declared otherwise than by act or operation of law, or by deed or conveyance in writing subscribed by the party creating, granting, assigning, surrendering or declaring the same, or by his lawful agent thereunto authorized by writing.”

8. Utah Code Ann. section 25-1-3 provides that “[e]very contract for the leasing for a longer period than one year, or for the sale, of any lands, or any interest in

lands, shall be void unless the contract, or some note or memorandum thereof, is in writing subscribed by the party by whom the lease or sale is to be made, or by his lawful agent thereunto authorized in writing.

9. The purported agreement whereby Beverly agreed to convey the House Property back to Terry should she pre-decease is otherwise void under Utah Code Ann. sections 25-1-1 and 25-5-3 as the alleged agreement is not in writing and signed by Beverly.

10. Defendant Chree Martin had actual and constructive notice of Plaintiff's claim to the House Property and she took subject to any claim of the Plaintiff.

11. The House Property is quieted in the name of the Plaintiff, on behalf of Beverly's estate.

12. Defendant Chree Martin has no ownership interest in the House Property.

13. Defendant Terry Olsen has no ownership interest in the House Property.

III.

ORDER ON PLAINTIFF'S MOTION AND DEFENDANTS' MOTION

Based on the foregoing Findings of Fact and Conclusions of Law, and good cause appearing, IT IS HEREBY ORDERED that,

1. Plaintiff's Motion is GRANTED;
2. Defendants' Motion is DENIED;

3. Plaintiff's Fifth and Sixth Causes of Action are dismissed as being moot;
4. Defendant's Counterclaim is dismissed with prejudice in its entirety;
5. Ownership of the House Property is hereby quieted in the name of the Plaintiff, on behalf of Beverly's estate, in fee simple title, and free from any claim of Defendant Terrence Olsen or Defendant Chree Olsen;
6. Defendant Chree Martin must vacate the House Property within 24 hours of the entry of this Order;
7. This Order may be recorded against the Property;
8. Costs are awarded to Plaintiff pursuant to Rule 54(d) of the Utah Rules of Civil Procedure; and
9. This is the Court's judgment as defined in Rule 54(a) of the Utah Rules of Civil Procedure.

**HEREBY ENTERED BY THE COURT
Effective on the Date When the Court Stamp is
Affixed on the First Page of this Document.**

MEMORANDUM



TO: Planning Commission

DATE: October 22, 2020

FROM: Staff

RE: Historical Overlay District

The city council has asked the planning commission to review the Historic Overlay District (HOD) and make a recommendation on the need to continue, modify or eliminate the associated regulations. Multiple properties have been allowed to be removed from the District and a review to determine whether these regulations are still relevant is needed.

Background

The current historic overlay district appears to have its roots in an ordinance that established a historic preservation commission in 1994. This group was comprised of volunteer residents who had an interest in preserving and protecting historic homes in the city. The Commission was charged to survey and inventory community historic resources, review proposed nominations to the national register of historic places, establish a West Bountiful historic sites list, and to provide advice and information to city officials.

In 2004, the West Bountiful Historic District was registered to the National Register of Historic Places and included 42 primary buildings and 26 outbuildings. (See attached summary.)

In 2007, the historic preservation commission was given additional duties to act as a review and enforcement committee for historic streetscapes, landscapes, and architectural design standards. This oversight included the historic homes on 800 West as well as the Heritage Pointe subdivision.

In 2012, an ordinance was adopted which stated that the review and approval of design plans within the city's historic district is better handled by an architectural review board managed by the city's planning department. The city's zoning map was modified to show the boundaries of the Historic District, which was not well documented but based on best information available at the time.

In 2015, the HOD ordinance was adopted and created the Architectural Review Board consisting of the zoning administrator, the chairman of the historic preservation commission, and an architect experienced in historic designs. This District is fully within the R-1-10 zone and the building and design regulations applied to dwellings and buildings that are erected or extensively altered within the District.

Current Historical Overlay District

The HOD consists of approximately 27 properties along portions of 800 West plus the 36 lots in Heritage Pointe subdivision. Included in these numbers are 1 vacant lot in Heritage Pointe, 1 vacant lot on 800 West, and a 6.7 acre property that is mostly undeveloped.

The attached map shows the current boundaries of the District which are irregular in shape. On the east side of 800 West, the District begins at the Fisher home on 1000 N and goes south to the Mackey home on the north side of city hall. This includes the Pages Circle subdivision built in 2007 and an LDS chapel. On the west side of 800 West, the District begins with the Hopkinson property (1200 N) and goes south to the DeWaal home on 400 N. The west boundary juts in and out in several places excluding a few homes built in the late 1800's. This west portion also includes the Heritage Pointe subdivision.

The age of homes in the District range from 1882 to 2019.

Next Steps

At its last meeting, the planning commission discussed removing Heritage Pointe subdivision from the HOD but wanted more time to evaluate the impact to the properties on 800 West also included in the District. It was also suggested that a review of the current general plan and its references to the historic district be reviewed.

The current and original zoning maps, historical overlay regulations, relevant general plan pages, and a summary of the U.S. Department of Interior/National Park Services description of the original West Bountiful Historic District are attached for your review and discussion.

NATIONAL REGISTER OF HISTORIC PLACES – WEST BOUNTIFUL, UTAH

In May 2004, the West Bountiful Historic District was registered to the National Register of Historic Places. The location was listed as 800 West (Onion St) from 400 North to roughly 1350 North (both sides of the street)

The District was comprised of 42 primary building (all but two are residential), and 26 outbuildings.

Function:

Historic function - single-family dwellings, a carriage house

Current function - single-family dwellings, a carriage house, religious facility, and government city hall

Description:

Mid-19th century, late Victorian, late 19th and 20th century revivals, late 19th and 20th century American movements and modern movements

Materials:

Stone and concrete foundations. Brick, wood, metal, stucco walls. Asphalt and Wood shingle roofs.

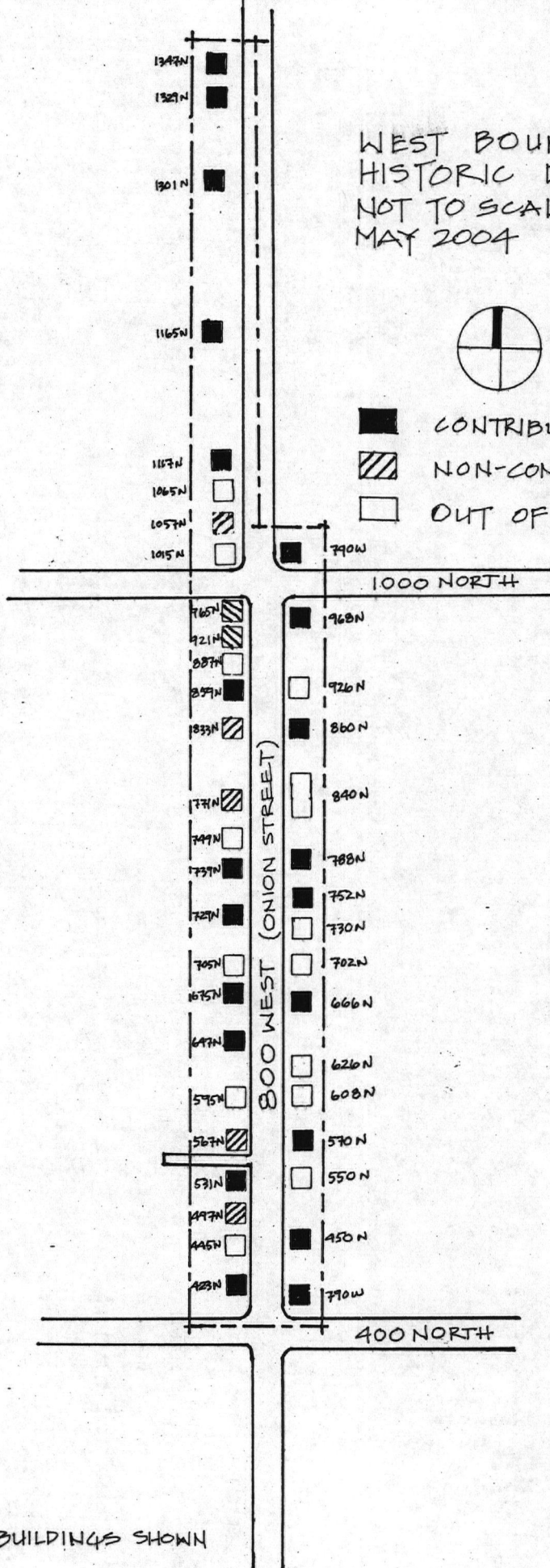
District Boundaries:

The boundary for the district runs along the rear property lines of the buildings facing east on the west side of 800 West (Onion Street) from 400 North, north up to the north property line of the building at 1347 N 800 West; it then runs south along the front property line of the buildings facing east on the west side of 800 West and then crosses the street east to include the building at 790 West 1000 North: it continues south along the rear property lines of the buildings facing west on the east side of 800 West back to 400 North and includes the property located at 790 West 400 North. These boundaries were chosen because the highest concentration of contributing buildings in the town remains in this section. Several other contributing buildings are located outside of these boundaries, but because of non-historic infill and alterations that have rendered some historic buildings ineligible, the boundaries are confined to the described area

WEST BOUNTIFUL HISTORIC DISTRICT NOT TO SCALE MAY 2004



- CONTRIBUTING
- NON-CONTRIBUTING
- OUT OF PERIOD



* ONLY PRIMARY BUILDINGS SHOWN

WEST BOUNTIFUL MUNICIPAL CODE

17.24.110 Historical Overlay District

The city recognizes that the historical heritage of the West Bountiful community is among its most valued and important assets. It is therefore the intent of West Bountiful to preserve, protect and enhance historic areas and sites within the city. These historic areas, included in the R-1-10 district, are designated as the West Bountiful Historical Overlay District. (See the West Bountiful zoning map for details.)

No dwelling or other building shall be erected or extensively altered on any lot in the historical district without the review and favorable recommendation of the construction plans by the architectural review board, as provided below. An architectural review board consisting of a member of the city planning department, licensed architect who has experience with Utah historical design, and the chairman of the Historic Preservation Commission will be responsible for reviewing historical design. The purpose of this review is to ensure the preservation of historic properties to the greatest degree possible. This review applies only to exterior work which requires a building permit, sign permit, or demolition permit. The applicant will pay a historic architectural review fee, as set periodically by resolution of the City Council.

Unless expressly stated to the contrary in this chapter, all provisions of the West Bountiful City Building Code and Ordinances shall apply in addition to the provisions of the Historic Preservation Commission Ordinance (Chapter 2.44) and this section. In the case of any direct conflict between this section and other provisions of the West Bountiful City Code or Ordinances, the more restrictive provision shall apply.

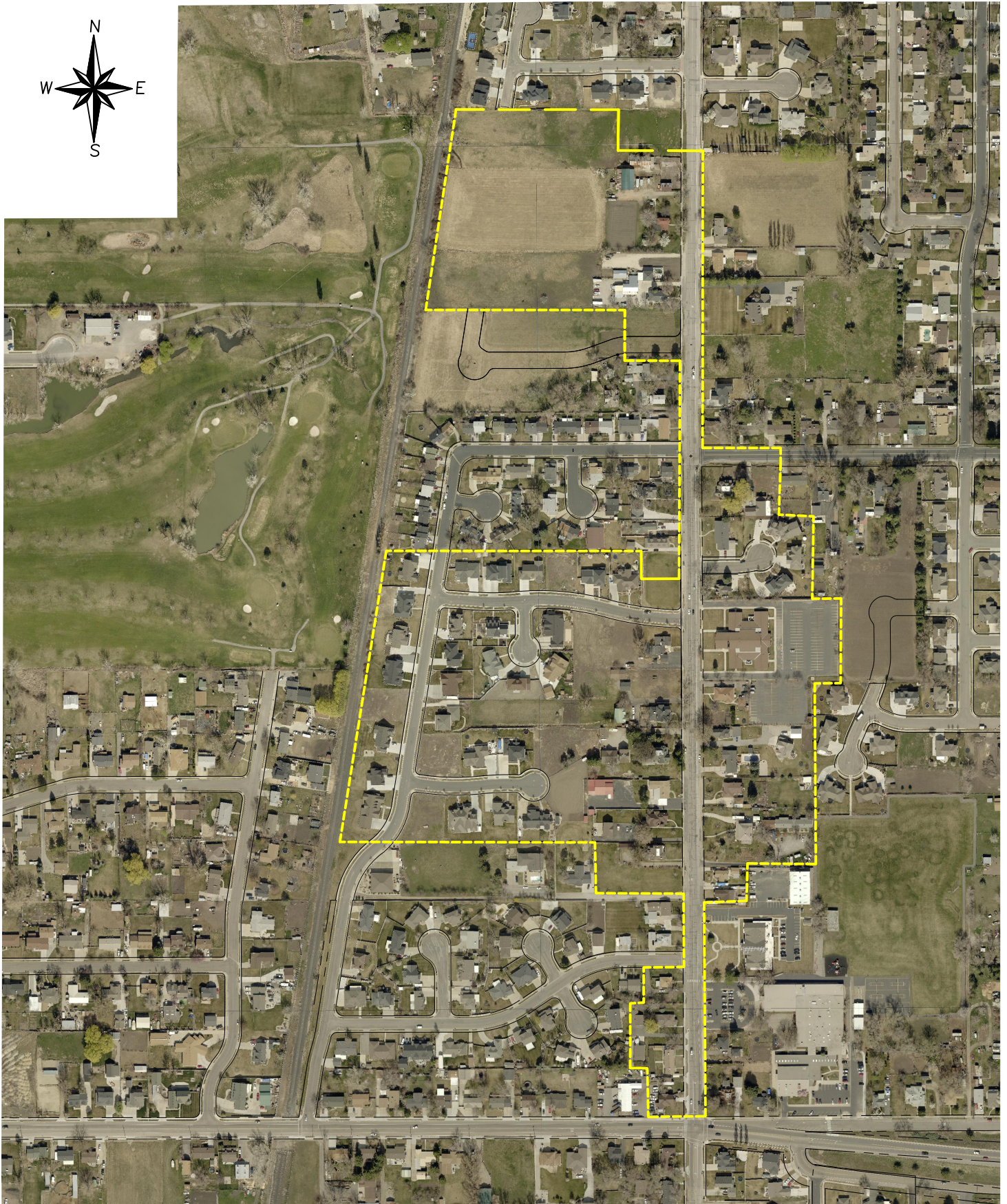
For new construction within the historical district, the following process will be used.

1. The owner or developer will submit an application for a Certificate of Historic Appropriateness and design plans to the zoning administrator. All construction plans and specifications shall include a list of the proposed construction materials which will be in harmony with the requirements of this ordinance as well as the exterior design of the existing structures in the historical district.
2. Design Standards - To ensure historic appropriateness for new construction within the historical district, projects shall be compatible in design, character, size, and proportion to existing historic buildings in the district. New construction shall enhance the historic qualities and unique feeling of the historic areas of the city and shall not erode the character of the neighborhood and shall conform to the following standards:
 - a) Building Design. The West Bountiful historical district evolved over an approximate 100-year span and includes houses of many sizes and architectural styles. Lot sizes and setbacks are not consistent. These variations are part of the unique appeal of the area and should be respected and preserved as much as possible. New development in the historical district shall emulate this pattern by incorporating various size lots, various size houses, and various architectural designs appropriate to time period and area. There are fine architectural examples of Victorian, Prairie style, Craftsman, Bungalow, English, Temple/Greek Revival, and cottage styles in the historical district all of which are appropriate architectural styles for new construction. In addition, many other architectural home designs built in Utah between 1848 and 1940 may be appropriate, as determined by the architectural review board.
 - b) Size. The size of the home shall correspond with the size of the lot. The house and all accessory buildings shall not cover more than 40% of the lot.
 - c) Height. One-story, one and one-half story (upper floor incorporated into the roof line), and two story homes (with an attic above the 2nd story) are appropriate. However, the height cannot be more than 35 feet above the curb level.
 - d) Exterior Facades. Brick is the predominant building material in the historical district. Therefore, the majority of houses should be brick with a fewer number of stone and clapboard homes. Appropriate materials for the outside walls of homes, garages, carriage

houses and other outbuildings are brick, stone/cultured stone or wood/fiber-cement board (such as James Hardee). Contrasting materials may be used for pillars, lintels, quoins, keystones, trims, etc. but must receive positive recommendation by the architectural review board. Brick wainscot, vinyl siding, aluminum siding, and stucco panels will not be allowed. Walls, roof shapes, windows, doors, porches, and ornamental detail shall be historically correct for the home's architectural style and period of history.

- e) Windows. Windows shall be appropriate in style and size for the home's period of architecture and must be uniform throughout the house. Windows must be recessed at least one inch from the outside of the exterior trim.
 - f) Colors - shall be historically appropriate to the home's architectural style and period of history.
 - g) Garages and other outbuildings. All houses shall be constructed with a garage for not less than two (2) vehicles and not more than three (3) vehicles. Garages must be the same architectural style and color as the home and may be (1) detached and located toward the back of the lot, (2) attached and flush to the house or extend up to five feet in front of the house if the garage is built to appear as part of the house and has a side or back opening, or (3) attached with a front opening if the front of the garage is set back at least five feet from the front of the house. The garage and other outbuildings shall be subordinate to the house and shall conform to the architectural style of the home.
 - h) Fences. No privacy fences are allowed from the front of the home to the street. However, low fences in wood/wood composite, ornamental iron, brick, rock, natural hedges, shrubs or any combination of the above may be used in the front yard as part of the landscaping. All fences shall comply with Section 17.24.100 of the West Bountiful Municipal Code, be appropriate to the style of the home and must receive positive recommendation by the architectural review board.
 - i) Driveways, sidewalks, steps, lighting, and landscaping shall be historically appropriate to the home's architectural style and period of history.
3. The architectural review board shall have 30 days to review the plans. Upon completion of the review, the board will either; (a) recommend the plans and specifications as submitted, or (b) notify the party making such request of any objections (such objections to be specifically stated). If objections are noted, the requesting party may resubmit a request for recommendation rectifying any such objections to the city. The architectural review board shall then have an additional 10 days after receipt of said revisions for review. The recommendation or denial of submitted plans shall be in writing and returned to the party making a submission, together with a notation of recommendation or denial and the date affixed to one copy of such plans and specification.
4. Upon approval of a Certificate of Historic Appropriateness by the architectural review board the owner or developer may obtain a building permit from the City. Building inspections and/or occupancy approvals will be withheld if the structure is not in compliance with the historical design approved by the architectural review board. For homes in the historical district, a bond will be required to assure compliance with approved architectural design. The amount of the bond will be set periodically by the City Council.
5. An applicant who has been denied any permit based on the architectural review board's refusal to issue a Certificate of Historic Appropriateness may appeal denial to the planning commission, acting as the appeal authority, in accordance with the procedures provided in Chapter 17.08.
6. Enforcement. The provisions of this section are subject to the enforcement provisions established in the current building code adopted by West Bountiful City, the West Bountiful Municipal Code, and other applicable laws.

WEST BOUNTIFUL HISTORIC DISTRICT



West Bountiful General Plan – Land Use (adopted 2019)

GOAL 5: Promote and protect West Bountiful City's heritage and historic areas.

OBJECTIVE 1: Protect and enhance West Bountiful's historic district as the heart and focal point of the City.

POLICY 1: Maintain a local Historic Preservation Overlay Zone, which encompasses the nationally recognized West Bountiful Historic District and additional historic properties near the heart of the City, as a local regulatory tool to ensure protection and enhancement of the City's historic properties.

POLICY 2: Maintain a Historic Preservation Overlay Zone ordinance, including performance criteria and design guideline language, to ensure that all new development, and redevelopment of existing historic properties, within the historic district respects and enhances the historic integrity of the district.

POLICY 3: Erect historic or vintage street signs with the original street names and numbering system along Onion Street, Howard Street, etc.

POLICY 4: Coordinate planning efforts within the historic district with the West Bountiful City Historic Preservation Commission to ensure that all new construction and streetscape projects enhance rather than compromise the integrity of the historic district.

OBJECTIVE 2: Identify opportunities for expanding the protection of historic structures within the City.

POLICY 1: Encourage the nomination of historic homes outside of the official West Bountiful Historic District for the National Register of Historic Places.

POLICY 2: Consider the development of demolition and alteration restrictions for contributing historic structures in the City.

PENDING – NOT APPROVED

Posting of Agenda - The agenda for this meeting was posted on the State of Utah Public Notice website, on the West Bountiful City website, and at city hall on October 9, 2020 per state statutory requirement.

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, October 13, 2020 at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

Due to the Coronavirus outbreak this meeting was held by teleconference measures using Zoom.

MEMBERS ATTENDING: All attending via Zoom: Chairman Denis Hopkinson, Vice Chairman Alan Malan, Mike Cottle, Dee Vest, Laura Charchenko, and Council member Kelly Enquist.

MEMBERS EXCUSED: Corey Sweat

STAFF ATTENDING: Kris Nilsen (City Engineer), Cathy Brightwell (Recorder) in house, Steve Doxey (Legal) and Debbie McKean (Secretary) via Zoom.

VISITORS: Via Zoom: Blake Heller, Shaurie Kagie, Steve Sellers, Richard Carlisle, Nelson Sandberg, Doug Schillings

The Planning Commission meeting was called to order at 7:30 pm by Chairman Denis Hopkinson. Laura Charchenko offered some thoughts about our duty and rights to vote.

Chairman Hopkinson read the following message: *The Mayor and the Planning Commission Chair have determined that due to the current COVID-19 pandemic and the physical distancing required to prevent the spread of infection, public meetings present a substantial risk to the health and safety of those who may be present at the meetings. That risk can be substantially mitigated by holding this meeting through electronic means that allow for public participation without an anchor location.*

1. Accept Agenda

Chairman Denis Hopkinson reviewed the proposed agenda. Laura Charchenko moved to approve the agenda as presented. Alan Malan seconded the motion. Voting was unanimous in favor among all members present.

2. Public Hearing Regarding a Request by Blake Heller to have his Property, or in the Alternative the Entire Heritage Pointe Subdivision, Removed from the Historical Overlay District.

Action Taken:

Laura Charchenko moved to open the public hearing at 7:43 pm. Mike Cottle seconded the motion and voting was unanimous in favor.

Introduction to Hearing:

Blake Heller submitted a request to have his property removed from the Historical Overlay District, or in the alternative, remove the entire Heritage Pointe subdivision from the District. He desires to build a

detached garage and has been frustrated working with the city's architectural review board for approval of the design which he has worked hard to look historic.

Notice of the public hearing was sent to all 36 Heritage Pointe property owners. A petition provided by Mr. Heller contained signatures of 10 homeowners in Heritage Pointe supporting the removal of the entire subdivision from the historical overlay district.

Public Comment:

Shauri Kagie – 811 N Vintage Circle, lives in Heritage Pointe and believes the historical requirements have not been enforced consistently. She described problems they had to deal with regarding the color of their home after the review board claimed they were contrary to the historical design regulations. She deems it has been mismanaged and believes it is in the best interest of the city to remove the whole district in order to avoid unnecessary legal actions.

Richard Carlisle – 865 W Heritage Pointe Circle, lives in Heritage Pointe and would like to go on record with his support of the removal of the entire subdivision from the district. He feels the regulations have fulfilled their purpose now that the development is built out and supports Mrs. Kagie's comments as well. He does not want to deal with the big hassle Mr. Heller has had to face when he decides to build a structure on his property in the future.

Steven Sellers – 877 W Heritage Pointe Circle, lives in Heritage Pointe and spoke in favor of the removal of the subdivision from the district. He was not aware of the petition but stated he would have signed it if asked.

Nelson Sandberg – 854 W 850 North, lives in Heritage Pointe and is in favor of removing the subdivision from the overlay district. He described the stress he was put through of having to deal with the restrictions when building his home. He feels that the regulations have served their purpose as the subdivision is now built out.

Doug Schilling - 850 W Heritage Pointe Circle, lives in Heritage Pointe and is in favor of the removal as well. The time and effort to go through the required process is daunting and not necessary or worth the time it takes.

Cathy Brightwell read two letters received by the city from residents unable to attend tonight's public hearing.

Emily Tolten - 853 W Heritage Pointe Circle lives in Heritage Pointe and believes there is no longer a need for the historical overlay regulations as the subdivision is fully established. She supports removing the regulations from the entire subdivision as keeping them in effect needlessly holds a modern, beautiful neighborhood to an antiquated standard.

Nick Cluff – 835 W 850 North lives in Heritage Pointe and stated support for keeping the historical overlay district. He stated that he recognizes varying degrees of compliance with the intent of the overlay district in the neighborhood, the rules and regulations that were set in place from the onset of the subdivision are one of the things that attracted his family to the subdivision and he believes it protects the integrity of the neighborhood and the investment in their home. It is his opinion that allowing the historic overlay district to be dissolved is not appropriate and may result in further problems for the city and subdivision including legal or other challenges.

Action Taken:

Alan Malan moved to close the public hearing at 7:54 pm. Mike Cottle seconded the motion and voting was unanimous in favor.

3. Consider Request by Blake Heller to Remove property at 862 Heritage Pointe Circle from the Overlay District

Commissioner packets included a memorandum dated October 9, 2020 from Staff regarding Historic Overlay District with an attached copy of the regulations for the Historic Overlay District and a site plan of Mr. Heller's accessory building.

Mr. Doxey explained the petition invokes 3 levels, two of which are public, and one is of a private nature. He suggested the first level of public regulation is to maintain harmony with the general plan. The second level of public regulation is to ensure that changes to the historic district are properly noticed and achieve the best interests of the community. The private issue, Covenants (CCRs) for Heritage Pointe subdivision, are at least as stringent as the overlay district and apply to the subdivision even if the historic overlay regulations are repealed. As the city is not involved in CCRs, changing or repealing them is the responsibility of the homeowners. Seventy five percent of the residents would need to be on board to remove or change them.

Staff/Commissioner Comments:

Dee Vest- Understands why they want to do away with the regulations but feels the homeowner group needs to have the 75% support to remove the entire district.

Alan Malan- Understands the points raised tonight and feels the regulations have served the purpose of what was intended when the subdivision was created.

Laura Charchenko- supports making a decision on Mr. Heller's specific property tonight but wants to further look into the removal of the whole district and if there is 75% support from the homeowners.

Mike Cottle- Deals with HOAs frequently in his job and understands that the city has no jurisdiction over the CCR's attached to the subdivision. Alan Malan pointed out that they are two separate issues, public and private, and the city can remove the historic overlay regulations without affecting the CCRs.

Councilmember Enquist does not feel the CCR issue needs to be considered for the request before them. Mr. Doxey pointed out that since the architectural design committee contemplated in the CCRs is not functioning and no HOA is in place any action taken would need to be challenged by an individual legally. It would take time and money to do so, but it could be done. The city can remove their regulations, but the restrictions bound by the CCR's are still in place.

Chairman Hopkinson spoke to the changes that have taken place in the historic zone that are not always in harmony with the regulations in place. He would like to see more discussion with the residents in this district before making a decision that impacts them all.

Cathy Brightwell noted that the original Heritage Pointe review committee, including members of the city's historical preservation commission, dissolved over time without involvement from the homeowners. The city was left taking over that responsibility and did so to preserve the historic nature of the area and not to defend or manage the CCR's of Heritage Pointe. She acknowledged there are many inconsistencies with the way the regulations have been interpreted and applied in the

subdivision even though the city tried its best to be consistent. She added that the two architects hired as part of the historical overlay's architectural review board have resigned due to frustrations with the process.

There was discussion about the need for more information on impacts to the remaining historic district and general plan before a final recommendation is made to dissolve the whole district. Chairman Hopkinson noted that there is no need to delay Mr. Heller's request in the meantime. This raised questions about spot zoning and how a future decision to remove the entire subdivision would not result in spot zoning.

Dee Vest does not want Mr. Heller exposed to possible lawsuits and would like to see the 75% support before making a decision.

Mr. Doxey reiterated that the 75% vote is in reference to dissolving/amending the CCR's which is separate from this request. He stated that the City could move forward with their decision and not be concerned about the CCR's.

Mr. Heller was given an opportunity to make comments. He noted that he has spent 3 months dealing with this issue and would like to have a decision sooner than later as it is costing money from rising material costs. The purpose of his building was to cover his RV before winter.

Some discussion took place regarding how to move forward with Mr. Heller's request. Commissioner Charchenko and Malan stated there was sufficient support from the public hearing to grant the request so he can move forward to city council. Commissioners Vest and Cottle preferred to wait to deal with the subdivision as a whole.

Councilmember Enquist noted that we have given an opportunity for the public to make comment and they responded this evening. It appears that the majority who showed interest supports dissolving of the district. He pointed out that we have supported others requests to be removed and should do so with Mr. Heller.

Mr. Heller spoke regarding his original intents to remove only his property and not all the district but was encouraged to do so. He does not feel it is fair to be held up while they discuss the whole subdivision.

Action Taken:

Laura Charchenko moved to recommend the removal of Blake Heller's property at 862 W Heritage Pointe Circle from the historical overlay district. Chairman Hopkinson seconded the motion which passed with a vote of 3-2. The votes in favor were Laura Charchenko, Alan Malan, and Chairman Hopkinson. Nay votes were Dee Vest and Mike Cottle. This will be moved to the City Council for their review and consideration.

4. Discuss the Historic Overlay District Regulations

The City Council asked the Planning Commission to review the Historic Overlay District and make a recommendation on the need to continue the building and design standards. Multiple properties have been allowed to be removed from the District and a review to determine whether these regulations are still relevant is needed.

The current historical overlay district consists of approximately 27 properties along portions of 800 West and 36 lots in Heritage Pointe subdivision. As far as possible future development, these numbers include 1 vacant lot in Heritage Pointe and on 800 West, 1 vacant lot and a 6.7-acre property.

Ms. Brightwell went over the background of the historical overlay district including its creation and subsequent property removals. It appears to have roots in an ordinance that first established a historic preservation commission that was done at least somewhat in conjunction with the Heritage Pointe subdivision. The historical overlay district was added as a land use ordinance in 2012. It included building and design regulations, similar to the Heritage Pointe CCRs, which were to be applied to all construction within the District. The ordinance also established an architectural review board responsible to review and enforce the regulations. This group consists of a member of the city planning department, a licensed architect who has experience with Utah historic design, and the chairman of the Historic Preservation Commission. The Historic Preservation Commission dissolved approximately ten years ago so planning commissioner Alan Malan has been filling their role, and the architect participating in this capacity recently resigned.

The review and enforcement of historic design elements within the Heritage Pointe subdivision has put the city in a position more akin to a homeowners' association rather than a body protecting a historic neighborhood. By ordinance, and) Within the current historic overlay district, there is currently one vacant lot in Heritage Pointe and one vacant lot on 800 West yet to be built on.

Cathy Brightwell reviewed the current map that showed the boundaries of the historical overlay district which are irregular in shape. On the east side of 800 West, the District begins at the Fisher home on 1000 N and goes south to the Mackey home on the north side of city hall. This includes the Pages Circle subdivision built in 2007 and an LDS chapel. On the west side of 800 West, the District begins with the Hopkinson property (1200 N) and goes south to the DeWaal home on 400 N. The west boundary juts in and out in several places excluding a few homes built in the late 1800's. This west portion also includes the Heritage Pointe subdivision. The age of homes in the District range from 1882 to 2019.

Commissioner Comments:

Dee Vest favors having a small area left in the district which would be mostly on 800 West to include 15 to 20 homes.

Alan Malan favors dissolving the boundaries that are partially incorrect. He supports Dee Vest's ideas. He would like to consider a financial incentive offered to any who would like to build a historic home.

Councilmember Enquist noted that there are some homes that should be included in the Historic District and some that should not be. He wants to preserve those homes that are actually historic and does not see the advantage of the overlay district being in place in Heritage Pointe.

Chairman Hopkinson noted that there are costs for the residents to keep this district functioning as in place today. He pointed out that there are homes on 10th North (outside of the historical overlay district) that have historic value as well as those on 800 West.

Mike Cottle inquired how many homes in the Historic District are on the National Registry. Ms. Brightwell was not sure but thought that there may be around 13. He wants to keep those on the registry but does not believe any others would need to be included.

Laura Charchenko feels if we consider removing the district, she would like to contact all the homeowners to see how they feel regarding the protection or regulations of the district in place.

Chairman Hopkinson noted that there are some issues that need to be considered further before coming to a decision. In particular, the ramifications to all property owners in that zone, not just those in Heritage Pointe. A review of the general plan is also important.

Mr. Doxey and staff will provide references from the general plan and prepare additional information to assist the commission in deciding if they want to change language, change boundaries of the district, or eliminate it entirely. Mr. Doxey noted that the general plan can be tweaked to fit the decisions made.

5. Staff Report

Kris Nilsen

- Pushing through building permits
- Working with Josh at the Golf Course on cart paths.
- Has identified issues at the school with their infrastructure, drainage, etc., and the district should be addressing those issues soon.
- RFP for pickle ball courts in next to city hall is due to be awarded the first week in November.
- 800 West construction is wrapping up. Steve Maughan is working with the contractor on punch list items.
- Dee Vest asked about the city ordinance on building heights that allows chimneys and other decorative appurtenances to exceed the maximum height causing obstructions. He suggested the commission take a look at the issue.

Cathy Brightwell

- Provided information on Land Use classes that are now being offered online in 2-hour segments. She will send out information as classes are scheduled. All training is free, and registration can be done individually online.
- Safety issues about raising speed limits on Legacy Parkway are being addressed with cable barriers and guard rail extensions. She noted several areas that are getting them one of which is in the West Bountiful area.
- It appears the legal issues regarding the Olsen property on Pages Lane that includes the kennel have been resolved. The property has been divided between two owners who are interested in selling and possible subdividing the property. Will keep you updated.
- Mike Cottle asked if the city was still getting complaints regarding Jed Christensen continuing to sell hay from his property on 800 West. Mike said he get complaints from his neighbors because the hay trucks pick up and deliver on his street. Cathy confirmed the city has received complaints as well.

6. Consider Meeting Minutes from September 29, 2020

Action Taken:

***Mike Cottle moved to approve of the minutes of the September 29, 2020 meeting as presented.
Alan Malan seconded the motion and voting was unanimous in favor.***

7. Adjourn

Action Taken:

Alan Malan moved to adjourn the regular session of the Planning Commission meeting at 9:23 pm. Laura Charchenko seconded the motion. Voting was unanimous in favor.

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The foregoing was approved by the West Bountiful City Planning Commission on October 27, 2020, by unanimous vote of all members present.

Cathy Brightwell – City Recorder

