



## STAFF REPORT

**DATE:** March 23, 2023

**TO:** Planning Commission

**FROM:** Sheldon Howa, Planner II

**SUBJECT:** Consideration and approval of a special exception to reduce the side yard minimum setback to three (3) feet for an accessory structure located at 11824 S Fools Gold Circle in the R-1-10 (Residential) zone.

**Applicant:** Loren M Merchant

**Acres:** ±0.27

**File Number:** P2023-026

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### **RECOMMENDATION:**

Staff recommends the Commission approve the following findings:

- The proposed use complies with Chapter 10-34: Accessory Buildings and Structures.
- The proposed use complies with 10-34-6: Special Exceptions.

Staff recommends ***approval*** of a special exception for reduced side yard setback requirements for the proposed accessory structure located at 11824 S Fools Gold Circle with the following conditions:

1. Receive and agree to all recommendations from other agencies.
2. Provide documentation showing the home's primary exterior finish material is vinyl siding.
3. Secure public utility easement (PUE) waivers for all building encroachments.

### **ISSUE BEFORE COMMISSION:**

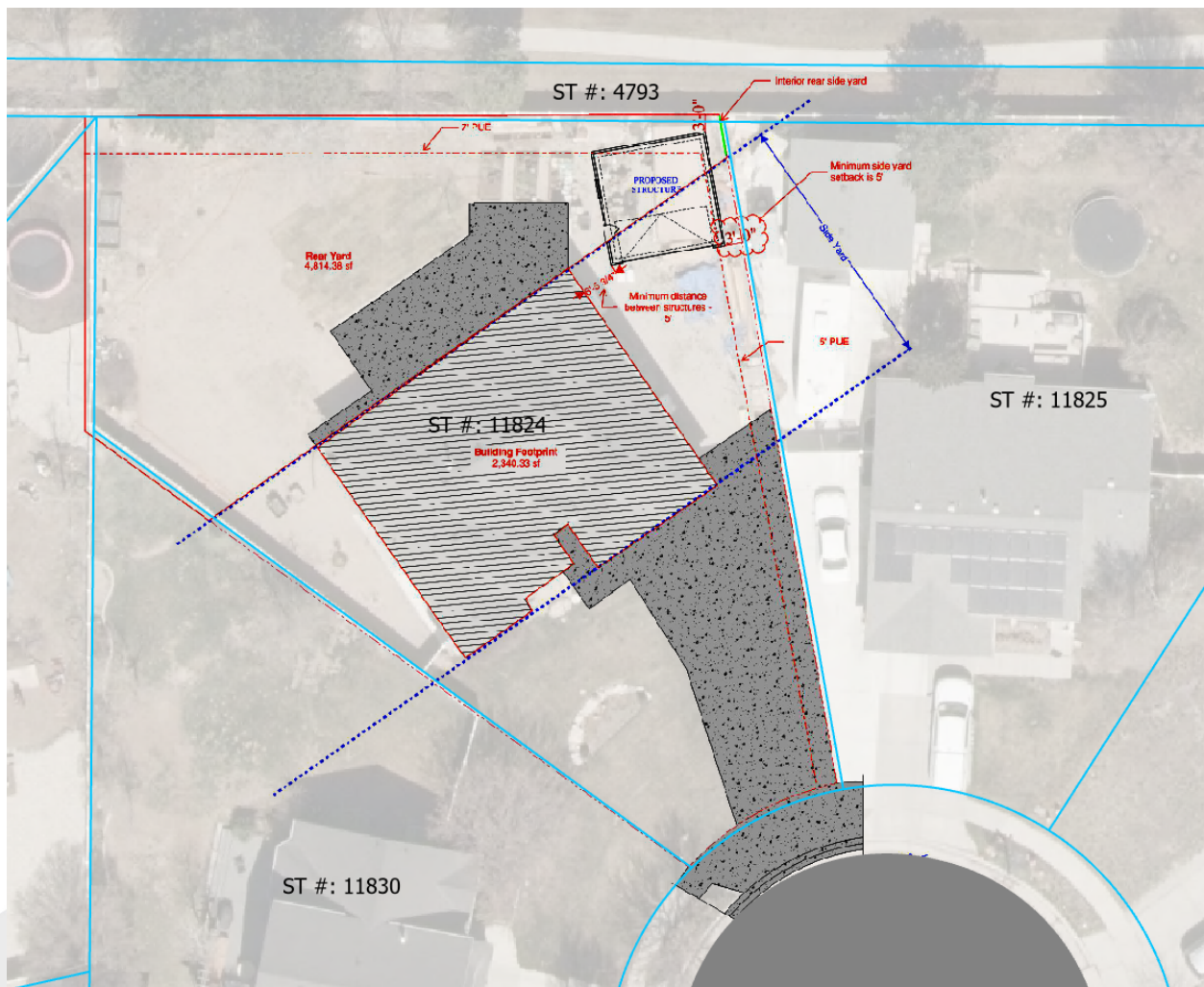
Should the Planning Commission approve the special exception reducing the five (5) side yard setbacks required for the proposed accessory structure located at 11824 S Fools Gold Circle?

If approved by the Planning Commission, with any required conditions, the applicant will continue working with staff to make all necessary corrections before any permits are issued.

### **BACKGROUND & SUMMARY:**

The applicant requests a special exception to reduce the side yard setback for an accessory structure from five (5) feet to three (3) feet to locate a portion of the detached garage in a side yard. Due to

the irregular "pie" shape and the narrow width of the front half of the lot, the home was set back further into the property. This has substantially reduced the size of the rear yard area along the east side of the house. Therefore, the applicant would like to locate the accessory structure two (2) feet within the side yard setback of their lot. This would be preferable, as relocating the structure further behind the dwelling would limit vehicular access to the structure, as its intended use is vehicle storage.



The proposed structure has a footprint of 20' X 20' (400 square feet) and a height of just over fourteen feet (14'-3"). Per 10-34 of City Code, for a lot of this size (0.27 acre), an accessory structure may be constructed to a height of twenty-five feet (with the appropriate setbacks) and have a maximum building footprint of 1,204 square feet. Therefore, at the proposed setbacks of three (3) feet, the structure's maximum height is sixteen feet.

The proposed location places the structure halfway between the side and rear yards. The minimum setback for the rear yard is three (3) feet, and the minimum side yard setback is five (5) feet. Due to the site's constraints, the applicant cannot push the structure further back into the east side of

the rear yard. However, moving the structure to the west two (2) feet to bring the structure into compliance with the side yard setback would encroach into the required building separation setback of five (5) feet. The applicant is seeking approval to reduce the side yard setback to three (3) feet to accommodate the placement of the proposed structure.

Per ordinance, notices informing the adjacent property owners were mailed on March 4, 2023. Any comments generated from the notices will be provided to the Planning Commission during the April 5, 2023, meeting.

## **DISCUSSION:**

### **Architectural Design Standards**

***Staff Findings*** – The elevations submitted with the request indicate the exterior finish of the structure is vinyl siding, matching the primary structure. Per 10-34-4, all façades shall use an exterior finish similar to the primary structure, including color and roof lines. In this case, the proposed finish materials would meet the design standards for accessory structures. However, the applicant will need to submit photos of their primary structure showing the primary finish material of the home is vinyl siding. Staff will work with the applicant before issuing a building permit to ensure these design standards are met.

### **Building Development Standards**

As per City Code 10-34, the footprint and height of an accessory structure depend on the building lot's square footage. The maximum height of an accessory structure is determined by the setbacks at which the structure is located from adjacent property lines. The table shown below reflects the requirements for accessory structures larger than 201 square feet:

<b>Lot Size</b>	<b>Building Height</b>	<b>Provided</b>
10,001-21,780 square feet	25' or height of primary structure, whichever is less. For every foot above 16' additional foot in interior side and rear yard setback required	11,761 square feet

***Staff Findings*** – The minimum setback for accessory structures larger than 201 square feet is three (3) feet from the rear and rear side lot lines and has the same setbacks as the principal structure (5 feet) when located in a side yard. At the minimum setback, the structure's maximum height cannot exceed sixteen (16) feet to the roof's peak. The applicant is proposing a structure with a height of just over fourteen (14) feet.

### **Lot Coverage**

Per 10-34 of City Code, the maximum lot coverage for an accessory structure is calculated on a percentage of the area of the rear yard or the footprint of the principal structure, whichever is less.

Based on the chart listed in 10-34 of City Code, the applicant is allowed 25% of the rear yard or 80% of the footprint of the home, whichever is less.

Lot Size	Maximum Coverage
11,001 - 21,780 SF Lot	25% of the rear yard or 80% of the footprint of the home, whichever is less

***Staff Findings*** – The rear yard of the subject property is approximately 4,814 square feet. The footprint of the home is about 2,340 square feet. Based on the calculations below, the maximum footprint of all accessory structures on the side can be no greater than 1,204 square feet.

Rear Yard	Maximum Coverage
4,814 SF	4,814 SF x 25% = 1,204 square feet

Footprint of Home	Maximum Coverage
2,340 SF	2,340 SF x 80% = 1,872 square feet

The applicant proposes an accessory structure with a building footprint of 400 square feet. The site's current aerials show an existing accessory structure, which is approximately 180 square feet. The existing structure is located in the same area as the proposed structure. Whether the structure is removed or relocated on-site, the combined footprint of both structures does not exceed the allowed coverage of the lot.

### Public Utility Easements (PUE)

Per 10-29-17, no dwelling, main building, or permanent accessory structure shall be located within a recorded easement area unless the property owner either produces evidence the easement has been abandoned or executes a recordable document allowing such encroachments.

***Staff Findings*** – At the proposed setbacks, the north and east side of the structure will encroach upon the rear (10') and side (5') yard public utility easements. The applicant shall provide PUE waivers from all parties who hold a legal interest in the recorded easement. If this request is approved, the applicant shall submit the PUE waiver with the building permit application.

### Special Exceptions

Per 10-24-6 of City code, an applicant can request a special exception to allow flexibility for specific and unique circumstances. These exceptions are only allowed under the following circumstances, which may include:

- **Irregular lot shape (see definitions)**
- Topography that creates a unique situation
- Flexibility in determining side/rear/front yards.



- Lot adjacency to other commercial/industrial/ open space land uses on at least two (2) sides of the property.
- Additional height for architectural purposes.

**10-34-6(D)(8)**

In cases where an exception is requested due to an irregularly shaped lot, the Commission shall consider the following:

1. The special exception does not materially impact the goals and policies of the City's General Plan.

**Staff Findings** – *The 2025 Herriman City General Plan does not address accessory structures, off-street parking, or personal storage in residential zoning districts. As such, the proposal does not materially impact the goals and policies of the City's General Plan.*

2. The special exception is not in conflict with adopted restrictive covenants governing the property.

**Staff Findings** – *The applicant's property is not part of a homeowner's association. However, the CCRs for this subdivision restrict the height of an accessory building to sixteen feet (measured to the mid-point of the roof). The proposed structure complies with this restrictive covenant (Section 3.4(b)).*

3. The proposed exception for the structure is in keeping with the development of the block pattern of the area.

**Staff Findings** – *As proposed, the accessory structure is placed on the property in an area consistent with the subdivision's block pattern. As the primary use of this structure is intended for vehicles, moving the structure further west on the property would significantly reduce vehicular access. Allowing for a reduction of the side yard setback would help maintain the block pattern of the area.*

4. The special exception will not have an adverse effect upon public health, safety, or general welfare of the community.

**Staff Findings** – *Staff has found that with the recommendations provided, granting the exception will not adversely impact the community's public health, safety, or general welfare.*

5. Other development requirements could be required that will further mitigate and are directly associated with the impact of the special exception.

**Staff Findings** – *Staff does not recommend any further requirements to mitigate the impacts of the proposed special exception.*

In conclusion, staff has determined that the applicant's request is consistent with the findings required for approval and recommends approval to the Planning Commission with the conditions stated in this report.

### **ALTERNATIVES:**

Action from the Planning Commission may include the following:

<b>Alternatives</b>	<b>Staff Recommendation</b>	<b>Considerations for Alternative</b>	<b>Considerations against Alternative</b>
<b>Approve</b> proposal as submitted		Approval allows for an exception to reduce setbacks to mitigate hardships created by an irregularly shaped residential lot.	Staff identified minor corrections that warrant conditions of approval
<b>Approve</b> proposal with conditions	<b>Yes</b>	Approval allows for an exception to reduce setbacks to mitigate hardships created by an irregularly shaped residential lot in compliance with City Code.	None identified by staff
<b>Postpone</b> proposal (with or without date)		The Commission may identify additional issues that warrant further research and review based on the provided information. A motion to postpone should identify what additional information is required.	Staff has not identified any issues that would warrant postponement
<b>Deny</b> proposal		Based on the information provided, and the applicable standards, the Commission may find that a motion to deny is warranted (identify findings and standards in motion)	Staff has not identified any findings that would warrant denial

### **ATTACHMENTS:**

- A. Application
- B. Vicinity/Zoning Map
- C. Site Plan
- D. Building Exhibit
- E. Notice