

**BEFORE THE CITY OF SOUTH SALT LAKE PLANNING COMMISSION  
SALT LAKE COUNTY, STATE OF UTAH**

**IN THE MATTER OF:**  
  
                  **VA-21-001**

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**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
DECISION AND CONDITIONS  
OF APPROVAL**

THIS MATTER came before the Planning Commission for the City of South Salt Lake on October 7, 2021, on an appeal de novo of the Community Development Director’s decision to deny Rachel Hoang’s application for a variance from strict compliance with the parking standards of South Salt Lake City’s Municipal Code (Code), the Planning Commission having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

**FINDINGS OF FACT**

1. An application was filed by Rachel Hoang proposing to convert an existing single-family home, located at 242 East 2100 South, South Salt Lake City, Utah 84115, to a hair salon.
2. The matter came before the Community Development Director for decision.
3. A public hearing was held for the decision made by the Community Development Director on the application for variance on August 24, 2021 and notice was provided to surrounding properties and in accordance with the requirements of state law.
4. A public meeting was fully noticed in accordance with state law and held on the appeal of the Community Development Director’s decision before the Planning Commission.
5. The proposed lot is located in the Professional Office land use district.
6. The hair salon use is a permitted use in the Professional Office land use district in a commercial building.
7. The hair salon will be a change in use from the current use as a residential use.
8. The residential use is not a permitted use in the Professional Office land use district, but the current residential use is currently a nonconforming use.
9. The properties to the south are zoned Professional Office and Single-family.
10. The properties to the north are in Salt Lake City.

11. The properties to the east are zoned Professional Office
12. The properties to the west are zoned Professional Office.
13. There are approximately 30 lots within the Professional Office land use district that have frontage on 2100 South.
14. The proposed lot is one of the smallest lots in the Professional Office land use district at .09 acres.
15. The proposed lot is one of four other lots in the area that do not have frontage on a side street or common ownership of an additional adjacent parcel.
16. The building located on the proposed lot is 959 sq.ft.
17. South Salt Lake City Municipal Code 17.06.160 requires off street parking to be provided. The hair salon use requires one stall per every 250 square feet of the building on the lot.
18. In order to be complaint with the amount of parking stall requirments, the applicant would need to provide four stalls.
19. The applicant does not have sufficient space in the back lot area as proposed to include four parking stalls.
20. South Salt Lake City Municipal Code 17.06.160 requires parking stall depth dimensions of 20 feet.
21. The applicant is proposing parking stall dimensions of 16 feet in depth.
22. The proposed lot and parking area do not have sufficent space to accommodate parking stall depths of 20 feet with the required drive aisle width.
23. South Salt Lake City Municpal Code 17.06.160 requires a drive aisle width in a parking lot to be 24 feet in width.
24. The applicant is proposing a drive aisle width that varies from 9 feet 9 inches where the aisle at certain points to 24 feet 2 inches at other points.
25. The proposed drive aisle width that narrows down to 9 feet 9 inches is where the drive aisle abuts the building on the lot.
26. In order to accommodate a 24 feet wide drive aisle width the entire length of the drive aisle the building would have to be torn down and rebuilt to building width less than 10 feet wide.
27. South Salt Lake City Municipal Code commercial buildings in the Professional Office land use district may not be less than 10 feet wide.
28. The application for a variance is for an exception to meeting the number of parking stalls required by the Code, the parking stall dimensions required by the Code, and the drive aisle standards in Section 17.06.160.

29. Without a variance, the applicant's use as proposed, does not meet the required parking stall, parking stall dimensions, and drive aisle standards for the hair salon use.
30. The applicant will not be using a waste containment system that will impact the parking area further.
31. The applicant has entered into a lease agreement to lease five parking spaces at a lot near the proposed lot to accommodate parking for employees.
32. The applicant intends to keep the parking stalls on the proposed lot for customers.
33. South Salt Lake City Municipal Code 17.12.010 requires an applicant requesting a variance to prove the following five criteria to
  - A, Literal enforcement of the Land Use Regulations would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the Land Use Regulations.
  - B. There are special circumstances attached to the property that do not generally apply to other properties in the same district
  - C. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district;
  - D. The variance will not substantially affect the general plan and will not be contrary to the public interest; and
  - E. The spirit of the land use ordinance is observed, and substantial justice done.
34. The Planning Commission considered all evidence with the record in rendering this decision, including statements from the applicant and the applicant's attorney, documents provided on the record and statements and information provided by Staff.
35. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

### **CONCLUSIONS OF LAW**

1. The Planning Commission is authorized to grant variances from the strict application of the zoning regulations pursuant to South Salt Lake City Municipal Code 17.12.010.
2. The applicant has the burden to prove the five criteria as required under South Salt Lake City Municipal Code 17.12.010 justifies the approval of a variance request.
3. The applicant has proved that literal enforcement of the land use regulations would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use regulations where there is no way for the applicant to use the proposed lot and commercial building within the Professional Office land use district. The applicant or any other future property owner would never be able to construct a commercial building that is compliant in size with the requirements of the South Salt Lake City Municipal Code while also staying in compliance with the parking requirements. The hardship is not economic but impossibility where there is no viable option to use the lot as a Professional Office use.

4. The applicant has proved there are special circumstances attached to the property that do not generally apply to other properties in the same district where the proposed lot is the smallest in the Professional land use district and the other lots are large enough to comply with the parking standards and have the possibility to use the frontage of the neighboring streets for additional parking. The size and topography of the lot make the requirement impossible to meet and comply with the other standards of the code.
5. The applicant has proved granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district where other properties have been able to convert the single-family homes in the area zoned for Professional Office to commercial uses. The other properties are larger or have adjacent lots that the property owners have been able to utilize to comply with the code requirements.
6. The applicant has proved the variance will not substantially affect the general plan and will not be contrary to the public interest due to the general plan's goals to promote walkability, promote small businesses and encourage parking efficiency. The proposed business will add to jobs to the area. There is public transit near the area as well as several dwelling units within walking distance of the area. The applicant has already obtained a lease agreement with a nearby lot to lease parking spaces for the applicant's employees in an effort to comply as closely as possibly with the code parking requirements.
7. The applicant has proved the spirit of the land use ordinance is observed, and substantial justice done due to the applicant proposing to change the use from a nonconforming residential use to a permitted use within the Professional Office land use district. The applicant's proactivity in leasing the parking spots meets the spirit of the ordinance requirement parking.
8. As conditioned, this proposal will closely comply with the parking requirements.
9. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

## **DECISION**

Based upon the above noted Findings of Fact, Conclusions of Law, request for variance VA-21-001, is hereby **APPROVED** for a variance from the number of parking stalls required on site, the parking stall depth dimension to be 16 feet rather than 20 feet and the drive aisle width may vary in width from 9 feet 9 inches to 24 feet 2 inches rather than a consistent drive aisle width of 24 feet, subject to the following conditions noted below.

**Commissioner George Pechmann** moved for the approval of the variance request subject to the conditions of approval, stating he believed the applicant had met all five conditions for approval.

**Commissioner Christy Dahlberg** seconded the motion, stating she believed the applicant had met all five conditions for approval and believed approval should be granted with the condition for parking.

**Commissioner Liz Gabbitas** agreed the applicant had met all five criteria and should be granted with the condition of approval.

**Commissioner Laura Vernon** agreed that applicant had met all five criteria and should be granted with the condition for parking.

**Commissioner Clarissa Williams** agreed that the applicant had met all five criteria and should be granted approval with the condition for parking.

**Commissioner Mary Anna Southey** agreed the applicant met all five criteria and should be granted the variance with the condition parking.

### **CONDITIONS OF APPROVAL**

1. All conditions imposed by this decision shall be binding on the applicant, which includes the owner or owners of the properties, heirs, assigns, and successors.
2. Pursuant to South Salt Lake Code 17.12.010(E), the granting of a variance and the conditions set forth runs with the land; compliance with the conditions of the variance is the responsibility of the current owner of the property.
3. Pursuant to South Salt Lake City Code, in any case where a variance is granted under the terms of this Title, no building or other permit shall be issued until after the end of the appeal period allowed in Title of this code. An appeal of the decision shall automatically stay the issuance of building or other permits until such appeal has been completed.
4. The applicant will be required to maintain a combination of on site parking and a lease agreement for offsite parking commensurate with the parking the parking stall requirements of the South Salt Lake City Municipal Code. The South Salt Lake City Municipal Code requires the salon use with a building size of 949 square feet to have four parking stalls and therefore the applicant must maintain a parking lease to have a total number of four spots whether on site on the lot or through a lease agreement on another site.

The foregoing is a Final Order of the Planning Commission of the City of South Salt Lake at its meeting on October 7, 2021.

Attest:



Planning Dept.

10-28-21

Date



Planning Commission Chair

10/28/21

Date

**THIS IS A FINAL ORDER.** Any person adversely affected by a final administrative order made in the exercise of the provisions of this chapter may file a petition for review in the district court. The petition must be filed within thirty (30) days after the administrative order is final.