

#### 1. Land Use Hearing

Notice is hereby given that the Land Use Hearing Officer will hold three hearings at approx. 2:00 p.m. on Friday, January 24, 2020, at City Hall, 3330 S. 1300 E., Millcreek, Utah: 1) LUHO-19-018, request to enlarge a non-complying structure by adding a single car attached garage at 2862 S. 800 E. by applicant Justin Clark; 2) LUHO-19-022, request for a variance on yard setbacks to construct a single-family home on a lot in the R-1-8 zone at 3475 S. Virginia Way by applicant Julio Cesar Raym; and 3) LUHO-19-027, request to reconstruct and enlarge a non-conforming garage at 979 E. Lorraine Dr. by applicant Katie Maxwell. In compliance with the Americans with Disabilities Act, individuals needing special accommodation during the hearings should notify the ADA Coordinator at khansen@millcreek.us or 801-214-2751 two days prior to the hearing date.

Documents:

[LUHO 19-018 STAFF REPORT.PDF](#)



3330 South 1300 East  
Millcreek, UT 84106  
801-214-2700  
millcreek.utah.gov

File # LUHO 2019-018

## Land Use Hearing Officer Summary and Recommendation

Request Type: Enlargement of a Non-complying Structure

Meeting Date: January 24, 2020

Parcel ID: 16-29-106-028

Current Zone: R-1-6

Property Address: 2862 S. 800 E.

Community Council: Millcreek

Applicant Name: Justin Clark

Planner: Blaine Gehring, AICP

Planning Staff Recommendation: APPROVAL

### PROJECT DESCRIPTION

Justin Clark is requesting an enlargement of a non-complying structure in the R-1-6 zone. The existing structure is non-complying because of its north side yard setback of 15 feet where 20 feet are required. The applicant would like to add an attached single car garage to his house. Mr. Clark has no covered parking on the property at present. He would like to convert his detached workshop into a single car garage and attach a single car garage to the house. Addition to the non-complying house is in keeping with the spirit of Chapter 19.88 of the Millcreek Zoning Ordinance which requires authorization by the Land Use Hearing Officer and staff would not object to the hearing officer approving the attached garage in this case.

#### **19.04.380 - Noncomplying structure.**

"Noncomplying structure" means a building or other structure or portion thereof lawfully constructed in compliance with the zoning ordinance existing at the time of construction, that no longer conforms to the height, area and/or yard regulations in the zone in which it is located due to changes to the zoning ordinance or to subsequent public acquisition of land for public improvements.

#### **19.88.070 - Additions, enlargements, moving and reconstruction of a structure.**

A. A noncomplying structure or building occupied by a nonconforming use shall not be added to or enlarged in any manner or moved to another location on the lot or reconstructed at another location on the lot except as provided by subsection B of this section unless such additions and enlargements comply with the regulations and intent of this title.

B. A building occupied by a nonconforming use or a noncomplying structure may be added to or enlarged or moved to a new location on the lot or reconstructed at a new location on the lot upon a permit authorized by the land use hearing officer, provided that the land use hearing officer shall find:

1. The addition to, enlargement of, moving of, or reconstruction of the structure at a new location on the lot is in harmony with one or more of the purposes of this title as stated in Section 19.02.020 of this title, and is in keeping with the intent of this title;

2. That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.

**19.02.020 - Purpose of provisions.**

This title is designed and enacted for the purpose of promoting the health, safety, morals, conveniences, order, prosperity and welfare of the present and future inhabitants of City, including, among other things, the lessening of congestion in the streets or roads, securing safety from fire and other dangers, providing adequate light and air, classification of land uses and distribution of land development and utilization, protection of the tax base, securing economy in governmental expenditures, fostering the City's agricultural and other industries, and the protection of both urban and nonurban development.

**19.88.150 - Application to have a structure declared a noncomplying structure.**

Whenever a structure is in violation of the height or setback provisions of this title, the owner may file an application with the director or director's designee to have the structure declared noncomplying. The director or director's designee shall approve the application when the evidence clearly establishes the following: A. The structure has existed at its current location, with the same size, height and setbacks for at least ten years; B. The structure is found by the building official or designee to pose no threat to the health or safety of persons in or around the structure, and; C. The City has not taken enforcement action for the violation for a period exceeding five consecutive years during which the violation existed.

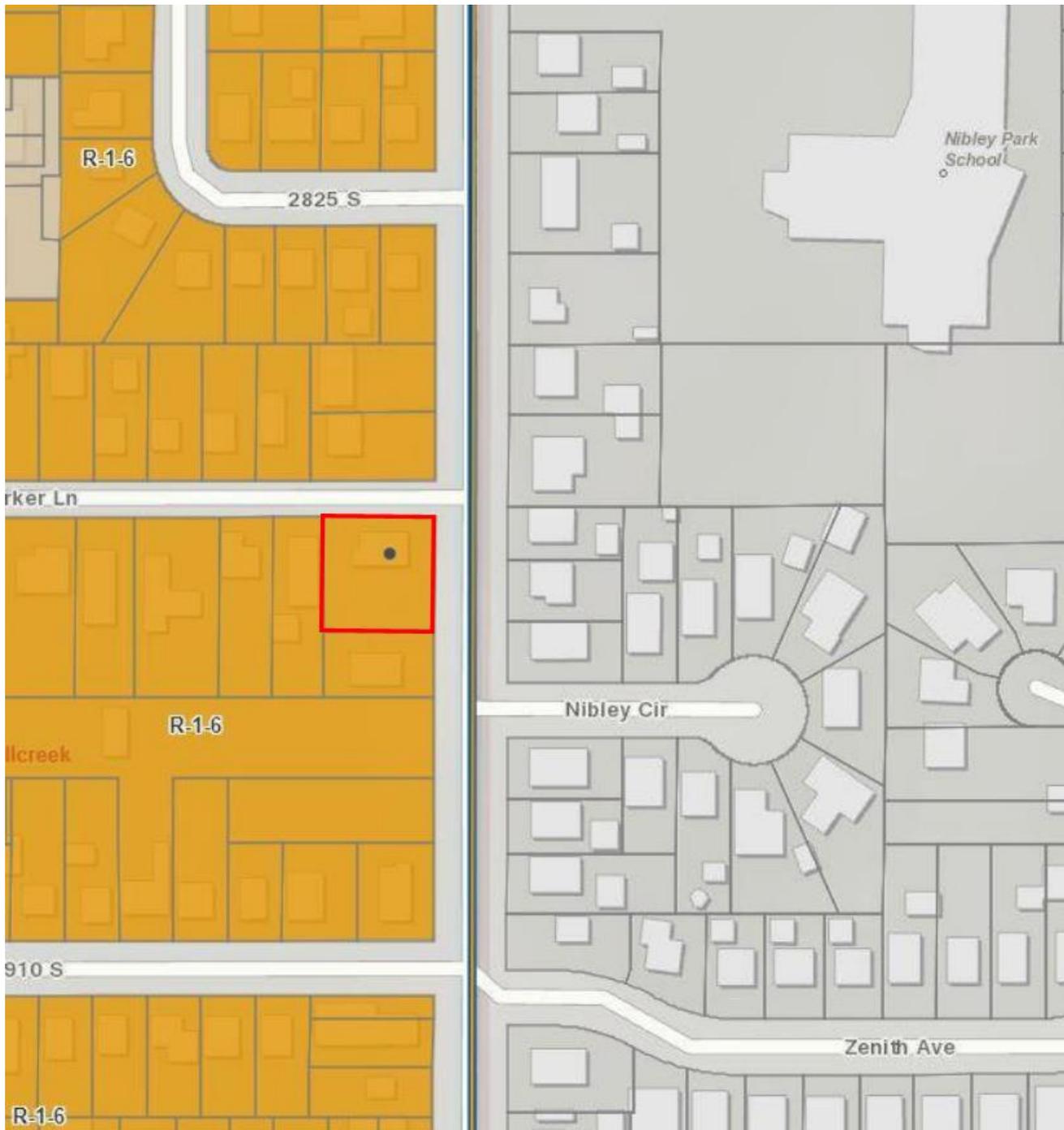
Planning Staff has declared the house and the existing shed as non-complying structures, since it meets all of the requirements mandated by **Section 19.88.150**.

## **SITE AND VICINITY DESCRIPTION**

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The subject property is located in a residential neighborhood adjacent to single-family homes in an R-1-6 Zone and adjacent to R-1 Zoning in Salt Lake City on the east side of 800 East.

**Property Site**



**LAND USE CONSIDERATION**

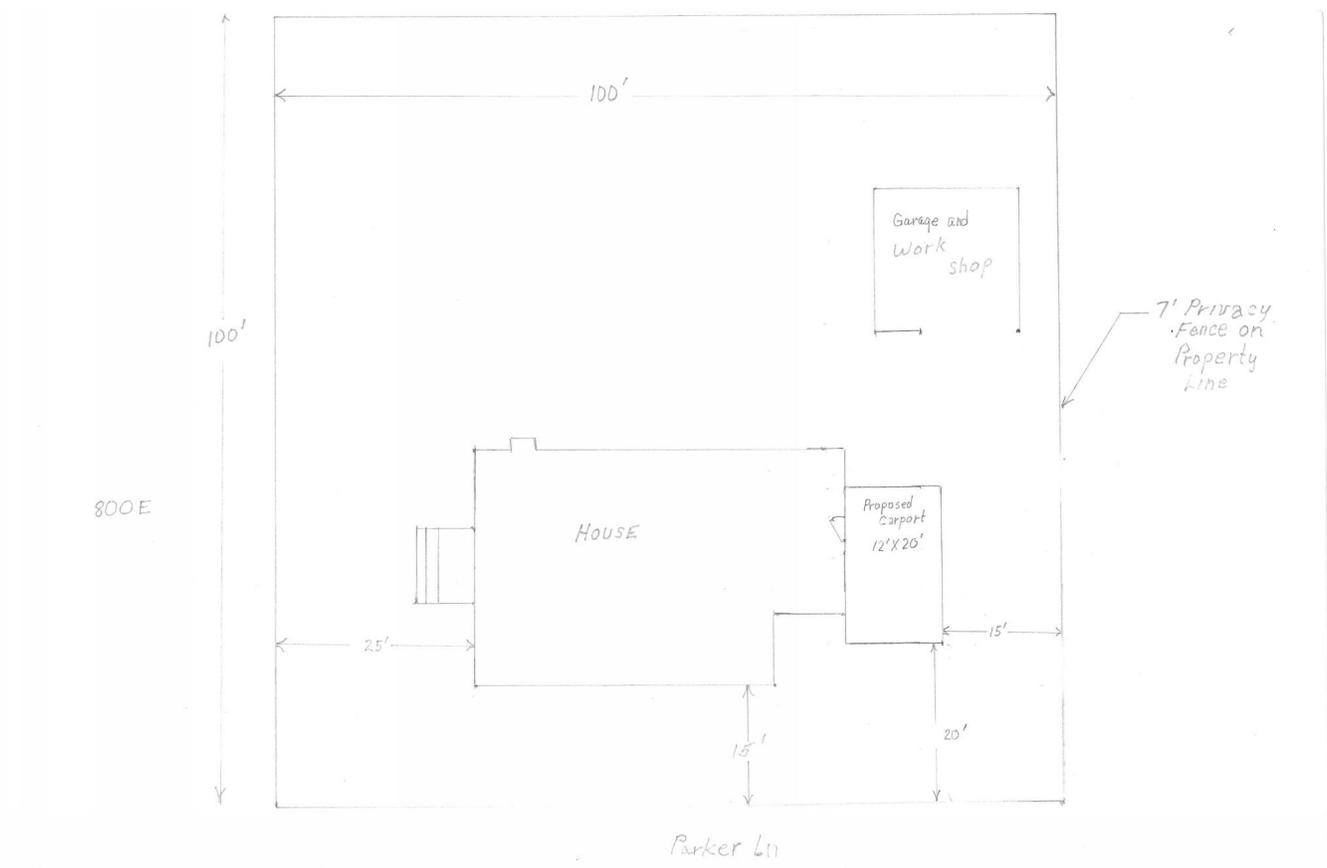
The home was built in 1927 before any zoning existed in Salt Lake County. The workshop to be converted into a garage was built in 1994 and meets current code setback requirements. The current ordinance requires at least one covered parking space for a single-family dwelling. Converting the workshop and adding an attached garage will meet this code requirement.

**Aerial Map and Street View**





### Proposed Site Plan



### ISSUES OF CONCERN/PROPOSED MITIGATION

The new attached garage meets the current code requirement of a 20-foot setback from the side street and 15 feet on a rear yard. Staff has no concerns with this request.

### PLANNING STAFF RECOMMENDATION

Based on a review of the plans submitted, planning staff determined that the existing structure is a legal noncomplying structure, and that the proposed addition qualifies for a hearing by the land use officer under the provisions of **§19.88.070 (B)** of the Millcreek Code.

The new addition would meet current code side and rear yard setbacks for the R-1-6 Zone.

**Staff recommends a finding that the project is in harmony with the purposes of the City's zoning ordinance** by adding onto the existing house in compliance with the R-1-6 Zone. The applicant's request is not seeking exceptions to any Millcreek Ordinance and the change will therefore be compatible with the neighborhood.

**Staff recommends a finding that this property does not impose any unreasonable burden upon the lands located in the vicinity of the noncomplying structure.** The proposed expansion will maintain the current use and density but will upgrade the shed with new construction and is consistent with the historic pattern of development in the neighborhood.

**For the above reasons, staff recommends approval of the request to expand a non-complying structure as provided in the exhibits in the staff report.**