

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
MARCH 10, 2021

COMMISSIONERS IN ATTENDANCE:

Chair John Phillips, John Kenworthy, Sarah Hall, Laura Suesser, Doug Thimm, Christin Van Dine

EX OFFICIO: Gretchen Milliken, Planning Director; Brendan Conboy, Planner; Mark Harrington, City Attorney; Jessica Nelson, Planning Analyst

The Planning Commission meeting was conducted virtually via Zoom.

The public was able to submit eComments during the meeting.

NOTICE OF ELECTRONIC MEETING & HOW TO COMMENT VIRTUALLY:

Chair Phillips read the Public Notice for Electronic Meetings and Exhibit A: Determination of Substantial Health and Safety Risk.

This meeting will be an electronic meeting without an anchor location as permitted by Utah Code Open and Public Meetings Act section 52-4-207(4) as amended June 18, 2020, and Park City Resolution 18-2020, adopted March 19, 2020. The written determination of a substantial health and safety risk, required by Utah Code section 52-4-207(4), is attached as Exhibit A. Planning Commission members will connect electronically. Public comments will be accepted virtually as described below.

To comment virtually, raise your hand on Zoom. Written comments submitted before or during the meeting date will be entered into the public record but not read aloud. For more information on participating virtually and to listen live, please go to www.parkcity.org/public-meetings

Exhibit A: Determination of Substantial Health and Safety Risk

The Commission Chair has determined that conducting a meeting with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location. Utah Code section 52-4-207(4) requires this determination and the facts upon which it is based, which include:

- Statewide COVID cases and hospitalizations remain high.
- Based on metrics established by the statewide COVID-19 Transmission Index, Summit County moved to the High-Risk designation on October 22, 2020; and

- Park City is a resort community continually hosting visitors from areas which may be experiencing rapid COVID-19 spread.

This determination is valid for 30 days and is set to expire on March 24, 2021.

Dated: February 24, 2021.

ROLL CALL

Chair Phillips called the meeting to order at 5:30 p.m. and noted that all Commissioners were present.

APPROVAL OF MINUTES

February 17, 2021

MOTION: Commissioner Kenworthy moved to APPROVE the Minutes of February 17, 2021 as written. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

February 24, 2021

Commissioner Thimm moved to APPROVE the Minutes of February 24, 2021 as written. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC COMMUNICATIONS

No hands were raised on Zoom and no eComments were submitted.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Chair Phillips disclosed that he was involved in a home remodel project at 1001 Lowell Avenue, which is a neighboring property to the 1049 Lowell Avenue property on the agenda this evening. He has never met the owners and was only involved in the construction. Chair Phillips did not believe it would affect his ability to discuss the plat amendment for 1049 Lowell Avenue.

Planner Brendan Conboy announced that Aiden Lillie was the new planner in the Planning Department. Planner Lillie introduced herself to the Commissioners. The Commissioners welcomed Planner Lillie.

Chair Phillips appreciated the City Council Business update that was included in the Staff report. He thought it was helpful for the Planning Commission to see what occurs beyond their work. Chair Phillips would like the update to become standard because it is very useful. Commissioner Suesser concurred. She found the link to be very helpful and she would like it to continue.

Commissioner Kenworthy asked where they were in the processing of selecting another Planning Commissioner.

Director Milliken reported that the applications were narrowed to seven or eight candidates through a committee and a list of priorities. The City Council will be conducting short interviews with those candidates because they already have the applications and resumes to review prior to the interviews. Ms. Milliken understood that they were only selecting one applicant for the Planning Commission at this point.

City Attorney Harrington noted that the City Council would be conducting those interviews at a special meeting on March 31st. Chair Phillips assumed the new Commissioner would be on the Planning Commission for the second meeting in April.

Commissioner Kenworthy referred to the City Council update regarding Argent at Empire Pass and asked if the word “abutter” should actually be “a bitter opposition”. Director Milliken explained that “abutter” is an actual word referencing the abutting property owner.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

5.A. Land Management Code (LMC) Amendment – Proposal to amend the LMC to address Shared Driveways and Common Parking Structures within the Historic Residential Medium Density Zoning District, amending LMC Chapter 15-2.4, LMC Section 15-13-2, LMC Section 15-13-8, and LMC Chapter 15-15. APPLICATION WITHDRAWN

Chair Phillips asked if the application was only being withdrawn from this agenda or whether it was withdrawn completely. Director Milliken reported that the application was withdrawn from being worked on for now.

5.B. 1049 Lowell Avenue - A Plat Amendment in the Historic Residential (HR-1) Zone to Adjust the Lot Line Between Lots 2 and 3 of the Northstar Subdivision under Common Ownership by the Applicant.

Planner Brendan Conboy reviewed the application for a lot line adjustment at 1049 Lowell Avenue and 1025 Lowell Avenue that is being processed as a subdivision plat application. He noted that typically this type of application would be reviewed administratively by Staff; however, one of the criteria for an Administrative Review is acknowledgment and approval by the abutting property owners. Planner Conboy stated that the applicant was unable to obtain that consent from the abutting neighbors and the only recourse was to come before the City Council and the Planning Commission with a full plat amendment.

Planner Conboy reported that the two lots are in the HR-1 zoning district. There are Historic Design Guidelines for these two properties for any new development being built. The subject lots are Lots 2 and 3 of the Northstar subdivision, which was originally recorded in 1977. The applicant holds both of these properties under common ownership.

Planner Conboy pointed out where the lot line runs between a walkway area of the two lots. The intent is to shift that lot line between Lots 2 and 3 so Lot 2 can accommodate a new addition and garage space, which will be subject to the Historic District Design Review. Prior to that review, the applicant needs to record this lot line adjustment so the square footage is in keeping with the lot size.

Planner Conboy reviewed added conditions of approval related to the property line. He noted that the private driveway that was installed to access the property was never approved via the plat. The Staff had added a condition of approval stating that the applicant will record the extension of Northstar Road on the final plat subject to the City Engineer approval. The Staff also added a condition requiring that the applicant obtain encroachment agreements for all encroachments between the lots. Another option would be for the applicant to eliminate the lot line entirely and create one lot. Planner Conboy explained that in the past when grading permits for landscaping and deck improvements came in, the Staff did not require those encroachments to be addressed at that time and this was an opportunity to clean those up.

Planner Conboy reported that the Planning Department had received public comment from the neighbor expressing concerns with the size of the house that could be built as a result of this lot line adjustment. Those concerns were conveyed to the applicant. The neighbor also raised the issue that there is a very large teepee associated with this deck that was built on 1025 Lowell Avenue. Planner Conboy believed that complaints were previously filed and the Staff at the time worked with the Building Department to clarify that because the structure is under 200 square feet and is temporary, it cannot be up for more than 180 days. Therefore, no permit was required. Planner Conboy

intended to research it further to see if that was accurate; however, it would not affect this lot line adjustment application based on the conditions of approval.

Commissioner Suesser asked if there is currently a house on Lot 3. Planner Conboy answered no. He explained that there is a deck with a teepee. Commissioner Suesser understood that the teepee would remain on Lot 3 even with the lot line adjustment. Planner Conboy replied that this was the point of clarification that needs to be addressed in the plat, which is why the Staff was requiring the encroachment agreements. Currently, the deck and walkway area that will be crossing the lot line is not shown.

Commissioner Suesser did not believe the driveway was correctly depicted in the proposed plat because the driveway actually comes across Lot 3 and out to Lowell Avenue. That does not appear to be the case in the picture. Commissioner Suesser thought an easement agreement was needed across Lot 3. She lives across the street and is very familiar with this property. Commissioner Suesser clarified that a portion of the driveway is definitely on Lot 3 and she did not think that was properly depicted on the proposed plat.

Planner Conboy noted that her question would be addressed in the redline process for the plat, which is why the Staff included a condition of approval that the applicant is required to record the extension of Northstar Road on the final plat subject to City Engineer approval. He clarified that the final plat would include the driveway location. Commissioner Suesser remarked that it is not on Northstar Road. The applicant's driveway to access their primary home cuts across Lot 3. She mentioned it because according to the proposed plat, Lot 3 looks like a standalone lot that could be sold off, but it actually has a portion of the driveway cutting across it and a big retaining wall.

Planner Conboy stated that she was able to confirm that the applicant has an existing encroachment agreement for snow melt features associated with the driveway that come out into the right-of-way. However, the retaining wall and the driveway crossing the lot line were not addressed in the past when those permits were issued; nor for the latest landscaping features that produced the deck that crosses those lot lines. That was the reason for adding the condition of approval stating, "The applicant shall obtain encroachment agreements for all encroachments prior to recording the plat with Summit County".

Commissioner Suesser emphasized that the plat is not accurate. This house is accessed from Lowell and the way it is depicted in the plat amendment, Lot 2 is also accessed from a driveway that cuts in front of Lot 1, but also accessed from Lowell southeast of Lot 3. She did not believe it was depicted properly.

David Larcher, the applicant, stated that Commissioner Suesser was correct in that the access to Lot 2, as well as Lot 3, comes off of Lowell up the driveway to where the stone wall is located. Additionally, he has an easement that comes from the north to Lot 2 as well, and that is depicted on the existing plat.

Commissioner Suesser asked if the proposed plat should be amended to reflect the retaining wall and the driveway. Mr. Larcher replied that typically the easements would be shown on the plat but not driveways or retaining walls. Commissioner Suesser clarified that at least the easement should be shown across Lot 3. Mr. Larcher answered yes.

Chair Phillips asked if there is access to Lot 3 from above the Northstar, or whether it would only be from Lowell Avenue in the future. Mr. Larcher replied that it would only be from Lowell Avenue in the future. He stated that there is no intent and no ability to come off Northstar because of the grade differential. Chair Phillips asked if someone could legally come in from above. Mr. Larcher stated that he has indicated a willingness to include on the plat a non-vehicular access easement across Northstar to keep cars from accessing in the future.

Chair Phillips asked if the teepee has been up for longer than 180 consecutive days. Mr. Larcher answered yes. Chair Phillips understood that the teepee was not the issue before the Planning Commission; however, they have spent considerable time in previous Planning Commission meetings creating these codes. He also wanted to know if the teepee was put up before or after the last revisions to the Code three or four years ago. Chair Phillips was interested in seeing the Code language with regards to the teepee structure.

Mr. Larcher stated that he was not aware when the Code was amended. He was also not aware until he read the Staff report that there was a 180-day restriction.

Commissioner Suesser referred to the teepee and asked if the Code requirement is that a structure of this size cannot be in place for more than 180 days per year. Chair Phillips understood that it was per the Code. He would like time to refresh his memory on the Code because the Planning Commission discussed how long a structure needed to be down before it could go back up, but he could not recall the specifics. Commissioner Suesser asked if Planner Conboy had looked into this issue and whether he had a recommendation regarding the teepee based on the Code. Planner Conboy stated that he had not delved deeply into this issue other than what came up in conversations with Staff members who had consulted with the Building Department a few years ago. At that time, it was determined that because the structure was less than

200 square feet no building permit was required, and as a temporary structure it was limited to 180 days. He had not researched it further and was hearing for the first time tonight that the teepee has been up longer than 180 days. The Staff will look into it to get a better understanding of how to classify this structure. Planner Conboy noted that technically the teepee is an accessory structure, but it is on its own lot and not accessory to anything else.

Commissioner Suesser was not comfortable imposing the requirement that the applicant dismantle the teepee and not have it erected for more than 180 days per year. She personally liked the teepee and was unclear on what the Planning Commission should be recommending without knowing the background and requirements of the Code when the structure was put up.

Chair Phillips reiterated that the teepee was not an issue for discussion this evening and any recommendation would not be tied to the plat.

City Attorney Harrington noted that there was an existing condition of approval that addresses the teepee and, therefore, it is before the Planning Commission. The new proposed lot line shift is either a new technical non-compliant issue with regards to the existing structure of either the teepee or the deck. He stated that Planner Conboy recognized that he may not have looked into that issue thoroughly. Mr. Harrington remarked that typically the encroachment condition of approval is used to rectify existing historic encroachments that are already there by right. The owners are proposing to shift the lot line and memorialize the historic encroachment as opposed to creating a new condition that is clearly non-compliant and has a separate enforcement action. Mr. Harrington thought it was appropriate for the Planning Commission to either clarify the condition of approval or request that the Staff provide additional information.

Planner Conboy asked if it is not remedied by an encroachment, whether that condition of approval would be sufficient if it was changed to require the recording of an easement. City Attorney Harrington was not prepared to answer that question without knowing the permitted use status of the structure and whether the deck meets the setback exceptions and other requirements. It is usually reserved for a deck attached to a permitted use and not a standalone structure. Mr. Harrington remarked that temporary facilities are different with different requirements. He preferred to consult with the Building Department to confirm if the teepee can remain with different applicable conditions as opposed to either removing it or addressing it in a Code compliant manner. Mr. Harrington believed there were three possible paths and the applicant needed to have the opportunity to explore them. In addition, it is important to make sure that both the Building and Planning Departments are clear on the current status for compliance and what would be needed to achieve compliance.

Commissioner Suesser thought more work needed to be done on this application to clarify the status of the teepee and how it should be addressed. She also reiterated that the access easements needed to be depicted on the proposed plat. Chair Phillips agreed.

Chair Phillips opened the public hearing.

Michael Grimme raised his hand on Zoom and was unmuted to make comment.

Michael Grimme and his wife, Pam, thanked the Planning Commission for all their efforts in Park City and particularly in Old Town. They have been homeowners since 2005 and their entire family has very much enjoyed Park City. Mr. Grimme stated that the teepee is on the lot all the time and not just 180 days. They called the City to ask about it and he was told that the owner was allowed to have it. It is a temporary structure, but it has never come down. Mr. Grimme remarked that the neighbor is a developer. They are simply homeowners, and their home is an important primary asset. When they bought into the Northstar Homeowners Association, they did so because of the size of the lots and the size of the homes. Mr. Grimme believed a home behind them that was still in the planning stage is double the size of their home. It is good for the community and everyone's property values. When he and his wife were contacted about this lot line adjustment they were concerned because it is a much smaller lot and a buildable lot, and what is built will be more of a townhouse than the homes built to date. Mr. Grimme stated that if the lots are kept as they are, the owner has the right to build two houses. In conversations with the owner, he had said his only other option was to sell both lots and let them be developed. Mr. Grimme was comfortable with that because it was within the owner's right. However, he is not comfortable with making the one lot smaller. Mr. Grimme stated that as a homeowner he is trying to protect their investment and do not believe that moving the lot line and having a smaller property is in their best interest or the best interest of the rest of the Northstar HOA.

Mr. Grimme noted that the owner also told him in a phone conversation that his intent was not to build on the lot because he wanted the privacy as well. Mr. Grimme was encouraged and suggested that the owner make the lot line adjustment with the proviso that the smaller lot would never be built upon. He could build the larger house and he and everyone else could enjoy their privacy. The owner objected to that idea because the lot is worth a lot of money. At that point, Mr. Grimme decided to work with the City. Mr. Grimme noted that he and his wife were never notified of this meeting and they only found out about it because another member of the Northstar HOA received a notification. When that owner informed Mr. Grimme a few days ago he immediately reached out to Planner Conboy with his concerns. Mr. Grimme stated that he and his

wife want to be good citizens and good neighbors, but at the same time they want to be treated fairly. They believe this lot line adjustment is not in their best interest.

Chair Phillips closed the public hearing.

Chair Phillips asked if the change in size of this lot would impact the setbacks. He was concerned that a future home built on the lot could be built closer to the abutting property, which could potentially be a negative impact. Planner Conboy did not believe the setbacks would change. The owner would still be required to meet the existing setbacks. He thought it could possibly reduce the buildable envelope.

Chair Phillips asked for the width of the lot on the frontage of Lowell Avenue. Planner Conboy replied that the new width would be 61.39' with a depth of 120' to 105' feet.

Chair Phillips stated that in the past, depending on the situation, the Planning Commission looks for an analysis on lot size in relation to the surrounding neighborhood. Based on the comments, he assumed this item would be continued for additional information, and he requested to an analysis on lot sizes in this area for the next meeting. Planner Conboy pointed out that he had provided a lot size analysis on page 5 of the Staff report. In the HR-1 zone, the minimum lot size is 1,875 square feet. This newly adjusted Lot 3 would be 6,599 square feet, which is well above the minimum lot size in the Historic Residential Zone. Chair Phillips remarked that analyses in the past provide a local sampling of the neighboring ten to 15 lots to help the Planning Commission understand if the proposed lot is within the spectrum. If it is far outside the spectrum, they look at it differently.

Chair Phillips thought this application was a good example of why the Planning Commission should look at their policies on moving lot lines and combining lots. He noted that the Planning Commission previously requested a discussion on how they want the policies in place so as a City they know how to proceed on lot combinations and lot changes. Chair Phillips clarified that this comment was directed to the Staff for a future discussion.

Commissioner Suesser wanted to know the maximum size of home that could be built currently on the property, and the difference in the size of house that could be built with the lot line adjustment. That perspective would be helpful. Commissioner Suesser walked outside her house to look at the lot and she did not believe the other Commissioners had a good understanding of Lot 3 and how the driveway cuts across the entire bottom of the lot. Commissioner Suesser emphasized that the access easement needs to be depicted and she thought the City Engineer should also look at it.

Planner Conboy clarified that the chart in the Staff report provides the allowable footprint that the resulting lot would create. He asked if Commissioner Suesser was looking for something more like a volumetric based on height and total square footage. Commissioner Suesser answered yes.

Commissioner Thimm agreed that additional information was needed at this point, as well as clarification of the various items discussed. Commissioners Van Dine and Kenworthy concurred.

Chair Phillips asked Planner Conboy whether the Planning Commission should continue this item to a date uncertain to allow time for the Staff and applicant to provide the requested information, or whether he had a specific date in mind. Planner Conboy preferred a continuance to a date uncertain.

David Larcher believed he had a good understanding of the what the Planning Commission was looking for in terms of clarification. Some of the issues are Code related and he will work with the Staff to figure out the details. Mr. Larcher stated that relative to the plat issues, changes to the plat regarding the driveway, easements, and encroachments could be made easily and quickly. Mr. Larcher noted that it has taken over a year to reach this hearing on the plat, and he requested continuing to a date certain to avoid delaying it much longer.

Chair Phillips stated that one factor is how the future agendas are already set. He asked if the Staff thought there was room on an agenda in the near future to add this item for a date certain. He pointed out that if the Staff did not have that information this evening, the Planning Commission could continue to a date uncertain, and the applicant could work with the Staff to get it on an agenda in the near future.

Planner Conboy noted that the agenda for the March 24th meeting is full and PEG Development has requested to be on that agenda as well. Chair Phillips suggested continuing this item to the first meeting April. If for some reason the Staff and/or the applicant is not ready for that meeting, the Planning Commission could continue it again to another date.

MOTION: Commissioner Thimm moved to CONTINUE 1049 Lowell Avenue Plat Amendment to April 14, 2021. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

Planning Commission Meeting
March 10, 2021
Page 11

The Planning Commission Meeting adjourned at 6:30 p.m.

Approved by Planning Commission: _____

APPROVED 03.24.2021