

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
OCTOBER 23, 2019

COMMISSIONERS IN ATTENDANCE:

Vice-Chair Laura Suesser, Sarah Hall, John Kenworthy, Mark Sletten, Christin Van Dine

EX OFFICIO: Planning Director Bruce Erickson; Hannah Tyler, Planner; Liz Jackson, Planner; Mark Harrington, City Attorney

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ROLL CALL

Vice-Chair Suesser called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioners Thimm and Phillips, who were excused.

APPROVAL OF MINUTES

October 9, 2019

Commissioner Sletten referred to page 22, second paragraph and the sentence, Mr. Bush clarified that the potential phasing is just two lots". He removed the word "potential" and changed the sentence to correctly read, "Mr. Bush clarified that the phasing is just two lots".

MOTION: Commissioner Kenworthy moved to APPROVE the Minutes of October 9, 2019 as corrected. Commissioner Sletten the motion.

VOTE: The motion passed. Commissioner Hall abstained from the vote since she was absent from the October 9th meeting.

PUBLIC COMMUNICATIONS

There were no comments

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Bruce Erickson reported that any Commissioners who were interested in taking a tour to Twisted Branch Road should contact the Planning Department. He recommended that only two Commissioners visit the site at one time; and accompanied by Staff. Those interested should contact Planner Tyler or Planner Ananth and they will schedule dates and times.

Director Erickson stated that the November 13th meeting had a full agenda; but that would be the only meeting in November.

Commissioner Sletten recalled a previous discussion regarding a City Council meeting on November 7th regarding the Memorandum of Agreement with respect to Historic Preservation, and whether the Planning Commission would be invited.

Director Erickson replied that the City Council was still deciding the format and the Mayor was giving consideration on whether or not to make it a joint meeting with the Planning Commission. If the Mayor decides against a joint meeting, the Planning Commission could still attend to listen to their discussion. On November 13th, the Staff will provide an update on what occurred at the November 7th meeting.

City Attorney Harrington stated that the Planning Commission would be invited to the November 7th meeting; however, he believed the mayor was leaning towards a joint meeting on Affordable Housing instead of the MOA.

Director Erickson announced that due to the holidays, the Planning Commission would only have one meeting in November on November 13th, and one meeting in December on December 11th.

Commissioner Kenworthy disclosed that he owns a home at 214 Woodside, across the street from the 245 Woodside application on the agenda this evening; but that would not affect his ability to discuss and vote on that item.

Commissioner Hall stated that she had lunch yesterday with a Commissioner from Snyderville Basin. He told her that when Snyderville Basin decided to do their version of an LMC overhaul, they developed a committee with three Commissioners and two Senior Staff to go through and update the entire Code; and a lot of progress was made with a smaller group. Commissioner Hall encouraged the Planning Department to consider a similar format for updating the Park City LMC. She expressed interest in being on the committee.

Director Erickson suggested that they first check with the Summit County Community Development Director to find out more about the process and whether it was going smoothly. Commissioner Hall explained the process as it was explained to her. She understood that the Staff already had a full workload, but she believed this was a potential opportunity to move forward with updating the Code.

Director Erickson remarked that there are a number of things they are trying to drive forward in the definitions and how they apply sections of the Code. He noted that some

Staff members had just returned from a study tour in Tahoe with the Mountain Town Planners Summit. Director Erickson thought the issues they were currently facing related to how the definitions work. He thought the sustainability module could be looked at further. The zoning module is fine but the definitions do not work well. The MPD modules generally works well; however, some of the authorities and responsibilities inside the MPD do not work. The parking module does not help affordable housing, and in some cases makes it worse when applying the affordable housing MPD. He noted that currently the Staff was moving forward with those modules.

Director Erickson reported that Planner Jackson and her team had a conversation with the Moab City Planner. Moab recently rewrote their Night Sky/Dark Sky ordinance. Director Erickson anticipated moving forward with that module as well. He noted that Planner Jackson was also bringing forward the Wildland Fire Interface. Planner Jackson stated that the timeline is have a program prior to the next fire season.

Commissioner Hall believed there was merit in forming a committee to work on the LMC. She offered to donate her time because it was a good use of her skill set; and noted that there were two attorneys on the Planning Commission who would be valuable as well. Commissioner Suesser stated that she was willing to be involved.

Commissioner Kenworthy asked whether individual Commissioners could visit Twisted Branch Road alone without a Staff member. Director Erickson thought it was in the best interest of the Planning Commission if a Staff member accompanies one or two Commissioners due to Open and Public Meetings considerations.

CONTINUATIONS – (Public Hearing and Continue to date specified)

- 5A. 1271 Lowell Avenue – Condominium Plat – King's Crown Condominium Plat
Consists of 26 Market rate Units and 1 Affordable Housing Unit.
(Application PL-19-04159)

Vice-Chair Suesser opened the public hearing. There were no comments. Vice-Chair Suesser closed the public hearing.

MOTION: Commissioner Hall moved to CONTINUE the King's Crown Condominium Plat to November 13, 2019. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

8.A. 245 Woodside Avenue – Plat Amendment – Proposal to Remove an Interior Lot Line to Create One (1) Lot of Record 2,812 square feet in size. (Application PL-19-04209)

Planner Liz Jackson reviewed the application for a plat amendment at 245 Woodside Avenue. She clarified that even though the Staff was recommending a positive recommendation to the City Council, certain aspects of the lot needed to be considered. The structure is currently being used as a duplex. There is a deck that extends into the right-of-way, a setback that is less than what is allowed per the zone, stairs that goes into the right-of-way, walls that exceed 6' in height, and a parking area that is not entirely within the property and extends into the right-of-way. Planner Jackson stated that an encroachment agreement exists for a concrete area for the stairs.

The Staff found good cause for the plat amendment; however, they want to be careful about the encroachments on the site.

Planner Jackson stated that per a letter attached as an exhibit in the Staff report, a duplex was deemed as the original use allowed by the zone at that time.

The Staff recommended that the Planning Commission review the application and conduct a public hearing for the 245 Woodside Avenue plat amendment, and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law, and conditions of approval as found in the draft ordinance.

Justin Keys, legal Counsel for the applicant, was present to answer questions.

Vice-Chair Suesser clarified that the Staff was recommending that the northern stairs be removed. Planner Jackson explained that the encroachments must be removed or brought into compliance with the Code. Another option would be to enter into an encroachment agreement with the City Engineer since the stairs extend into the right-of-way.

Commissioner Sletten referred to Exhibit B, a letter from the applicant, and noted that the letter states one lot of record for this single-family residence; however, the Staff report refers to a duplex. Planner Jackson remarked that there could possibly be development in the future, but the intent is to continue to use the structure as a duplex.

Commissioner Sletten stated that if the plat amendment were to be approved this evening and no action is taken within one year, whether it could continue to be used as it currently exists without any modifications, or the plat amendment is not recorded.

Director Erickson explained that the Planning Commission was making a recommendation to the City Council. If there is no action on the plat within one year, the applicant would need to request that the City Council extend the approval. Director Erickson stated that the plat amendment was conditioned such that all of the encroachments need to be resolved prior to the plat being acted on by the City Council or before plat recordation. Director Erickson remarked that if the Planning Commission was the final action, the Staff would not be moving forward until the encroachments were resolved. However, this was only a plat amendment to remove the lot line through the kitchen, and the other actions need to be resolved.

Director Erickson pointed out that the applicant has the option to scrape this building and build a structure consistent with the Code. If the applicant chooses to resolve the encroachments, they need to negotiate with various agencies and the City Council; and that needs to be done before the City Council will allow recordation. Commissioner Sletten asked if nothing was done and the plat amendment expired, whether the applicant would be able to continue using the property as it currently exists. Director Erickson answered yes.

Vice-Chair Suesser asked wanted to know how the parking was presently being used, the number of parking spaces required for this building, and whether they were currently parking within the right-of-way. Planner Jackson stated that as currently laid out, a small portion of parking is within the property lines. The majority of parking goes into the right-of-way. Without evidence of an approved permit regarding the parking area, the Staff calculated four parking spaces for a duplex. At the time of the original approval, the plans for a two-family dwelling or a duplex required two parking spaces. The Staff would be comfortable with the original two-space requirement since the four parking space scenario cannot not be reached.

City Attorney Harrington explained that the applicant was very limited in the continued use because of the non-conforming nature. It only allows internal remodel and no expansion of floor area or anything that creates the expansion of the degree of non-conformity. Anything that creates additional parking requirement, floor area, rental, etc. would be further limited. Mr. Harrington remarked that the City would be free to notice the encroachments at any time.

Vice-Chair Suesser asked Planner Jackson to pull up the survey showing the layout of the property and the encroachments into the right-of-way. Planner Jackson indicated Lot 11 and Lot 12 and the lot line that was being removed.

Vice-Chair Suesser understood that the Planning Commission was addressing the plat amendment, but they were not looking to place conditions requiring the applicant to enter into an encroachment agreement or to remove the encroachments.

Commissioner Sletten understood from the Staff report that approval of the plat amendment was subject to the encroachments being resolved prior to recordation of the plat. Planner Jackson clarified that if approved, the applicant could move forward with the plat amendment, but the encroachments would need to be addressed. That was stipulated in Condition of Approval #3.

Commissioner Hall asked if it was standard to do an either/or within a condition of approval; such as saying that the encroachments must be removed or there must be an encroachment agreement. City Attorney Harrington answered yes. He explained that the intent is to remedy the non-compliance and it can be done either way. No one gets prescriptive rights against the City. Therefore, the City needs to give permission for the encroachment to remain or the encroachment must be removed. Mr. Harrington explained that there was an existing encroachment agreement for one portion of the stairway, but for whatever reason, there was not one for the rest of the encroachments. These are revocable encroachment permits that temporarily allow the use until the City needs the right-of-way. Commissioner Hall read, "...before any work on the encroachments can begin". Mr. Harrington replied that the applicant cannot do any work until the plat is recorded and the plat cannot be recorded until the encroachments are resolved.

Commissioner Hall referred to Condition of Approval #4 which talks about the existing duplex use and the reasons why it is not in compliance with the duplex use. She understood from the language that the applicant can use the existing use as a duplex, but any deviation, expansion, or demolition of the existing structure is not allowed. Commissioner Hall thought that was the reason for doing this plat amendment process. City Attorney Harrington stated that this process does not cure the non-conforming status of the structural elements. The applicant is still bound by the Non-Conforming Chapter of the LMC. The Condition is precise and mirrors and further defines some of the triggers in the Code for existing non-conforming structures. He thought they could eliminate the language and reference the appropriate LMC Chapter; however, the Staff preferred the language because it puts all the regulations in one place and the next planner would not have to do the same research again. The intent was to make it clear for the owner's perspective and for future Staff that if those triggers are met the use

goes away because of the non-conforming issues. Mr. Harrington clarified that a further declaration of non-conforming rights needs to be done through a separate application process, and that was not being done here. That was the reason why the condition did not reference exactly what is or is not conforming. It only sets the baseline trigger that if 50% of the structure is demolished or there are major alterations, anything new must be in compliance. Commissioner Hall was confused because one sentence in the Condition said "any" and another sentence said, "50% of the floor area". Mr. Harrington replied that the sentences addresses two different circumstances. They were not meant to read the same or to qualify each other. He suggested that they could make the last sentence its own condition of approval for clarity; or they could leave it in Condition 4 and add "pursuant to Chapter 15-9-5 of the LMC".

City Attorney Harrington clarified that the Staff found good cause for the plat amendment because the Building Department cannot issue any building permit for the existing structure with the lot line through the middle of the house. Vice-Chair Suesser pointed out that the plat amendment was conditioned on either removing the encroachments or entering into an encroachment agreement before the plat could be recorded. Therefore, the Planning Commission was contemplating what the applicant should or should not do with the encroachments because it was a condition of approving the plat to remove the lot line. Mr. Harrington answered yes.

Vice-Chair wanted to know the good cause for allowing the applicant to keep the encroachments and enter into an encroachment agreement. She thought that would set a precedent for allowing people to build non-conforming structures in the City and then enter into an encroachment agreement; rather than to remove it because it was built improperly on the property. City Attorney Harrington stated that if it was in a time situation that was contemporaneous, that would be true. However, in a situation where the encroachment has existed for 25 years, there is no direct correlation between motive and forgiveness. This property has been through one compliance and the last round of encroachments were done the same way. The owner was forced to abandon the triplex and go back to a duplex. It was unclear why the rest of the encroachments were not addressed. The Staff searched for as many details as they could find and felt comfortable enough that the duplex was confirmed. The City was trying to clean up things as they come through because plat amendments and lot line adjustments were not required until the 1990s.

City Attorney Harrington stated that the Planning Commission has the purview to identify harm or a Code problem or impact with encroachments, but the trade-off for non-conforming structures is to tear them down and build a much larger structure.

Justin Keys, representing the applicant, agreed with City Attorney Harrington. He stated that this was not malfeasance on the part of his client. The building was built in 1974. His client purchased the property in 2004 and these same encroachments existed at that time. Mr. Keys remarked that this is a reality that everyone deals with in Old Town Park City. He pointed out that the request this evening was simply to vacate the property line through the middle of the lot so they can begin to discuss the steps to bring this property into compliance through an encroachment agreement or a combination of encroachment agreement; and possibly remove some of the encroachments.

Mr. Keys encouraged the Planning Commission to look at this in the context of the entirety of time. It has been operated as a duplex for decades and provides a need in the community for reasonable affordable housing. Mr. Keys stated that his client has been working on this for over a year and they were trying to be responsible and move forward. They have already requested meetings with the City to work out an encroachment agreement and a plan to address these legitimate concerns. However, they cannot take that step until the plat amendment is approved to remove the lot line.

Commissioner Sletten asked if an architectural firm was engaged in the process. Mr. Keys answered yes.

Commissioner Kenworthy asked if the applicant had a solution in mind for the southernmost staircase. Mr. Keys stated that the applicant would prefer to move that staircase up against the home, as proposed by the architect, to bring it completely within the lot boundary. He explained that the northern staircase is the focus of the 2010 encroachment agreement, and that staircase needs to remain because it is a fire escape and access for the upper unit. Commissioner Kenworthy understood from Mr. Keys that the southern staircase was not built in the last 10 years. Mr. Keys replied that his understanding was that it was all there when the remodel was done in 2010.

Vice-Chair Suesser opened the public hearing.

There were no comments.

Vice-Chair Suesser closed the public hearing.

Vice-Chair Suesser asked Commissioner Kenworthy to comment on the parking since he owns a home in the neighborhood. Commissioner Kenworthy replied that Woodside is under parked and there are issues in a heavy snow load year. Several homes do not have garages. He saw the house being remodeled and the staircases going in over the last decade. It was easy to notice how the staircase came right into the street. He

stated that the staircase does cause problems and takes away parking on the street. However, he was unsure how that could be resolved. Commissioner Kenworthy appreciated the workforce housing. He wanted to see this process move forward so these issues could be cleaned-up. Commissioner Kenworthy felt that if the Planning Commission forwarded this application to the City Council this evening, there would be better options to clean it up.

Vice-Chair Suesser was confused about the process. She understood that the applicant would be required to enter into an encroachment agreement, but the Planning Commission was not able to see a draft encroachment agreement or know how the agreement would be drafted. She asked if that would come back to the Planning Commission once it is drafted. City Attorney Harrington replied that it would not come back to the Planning Commission because it is a City Engineer and/or City Council decision. Vice-Chair Suesser remarked that the Planning Commission has seen proposed encroachment agreements on other applications in the past. Mr. Harrington stated that depending on what the applicant proposes, it may or may not come back to the Planning Commission. They will see it if it comes back for a conditional use permit. The existing encroachment agreements for the sod work, concrete and the steps were done through the City Engineer. Anything structural goes to the City Council.

Vice-Chair Suesser clarified that if the Planning Commission approves the lot line removal, conditioned on the applicant entering an encroachment agreement or removing the encroachments, there is no way to know if the encroachment agreement will clean up the staircase from coming so close to the road. She understood that the applicant could enter into an encroachment agreement with the City that makes the staircase into the right-of-way permissible. City Attorney Harrington replied that the City Engineer would have the authority to make that determination. Vice-Chair Suesser wanted it clear that the Planning Commission has no way of knowing whether the issues would be cleaned up. She asked if the Planning Commission had the purview to condition approval of removing the lot line on specifics related to the encroachments. Mr. Harrington stated that unless there is a Code basis in terms of what they were trying to determine, the Planning Commission could recommend that the City Council be the final decision maker rather than the City Engineer if they have policy concerns, such as whether temporary use of the right-of-way should be permitted.

Vice-Chair Suesser clarified that the City currently does not have a City Engineer and she thought that was a concerning circumstance. Director Erickson reported that a City Engineer will be on Staff by the end of November.

Commissioner Kenworthy noted that the neighbor adjacent to 245 Woodside has two lots. One is a lot with a jacuzzi on top, and then a green and purple house. There is a

buildable lot in between owned by the same neighbor. Mr. Keys agreed there was space in between, but he could not verify that it was a buildable lot. Commissioner Kenworthy stated that personally, if he owned the lot next door and he would be concerned that this would have a negative effect on building on that lot. The staircase intrudes into the right-of-way, but it also affects the other neighbor. Mr. Keys noted that the staircase is within the setback. He had seen black and white photos that show a similar staircase coming down. It was an older wooden style staircase that was there before the staircase was reconstructed in 2010. It is the same access point being used in the same way, which is why it was approved in 2010 as a continued use.

Commissioner Sletten stated that he had confidence in the City Council and he thought the new City Engineer would of sufficient caliber to correct these items properly going forward. Commissioner Sletten was prepared to recommend approval; however, he understood the other concerns that were mentioned.

Commissioner Kenworthy wanted a condition requiring the staircase encroachment to be fixed upon recording the plat. He thought the staircase came further out after the remodel than where it was before. He believed the applicant could change the staircase and still negatively affect the neighboring project if his neighbor decided to build. Commissioner Kenworthy was very supportive of the use and did not want that to change. He was comfortable with the amount of parking because there are many homes on Woodside without any parking. He wanted the encroachment to be fixed to some degree.

Vice-Chair Suesser asked Commissioner Kenworthy if he was was saying that the staircase was no wider than it was previously, or that it is not within the setback or the right-of-way. She asked him to clarify what he meant by "fixed". Commissioner Kenworthy replied that previously it was still an encroachment, but it was brought further out to the road when they did the remodel.

Commissioner Hall thought much of the discussion circled around the staircase and less on the existing retaining walls, paved parking, or the northern side of the property. She suggested that they could leave Condition #3 as written in the Staff report; and add a separate condition of approval that talks about the staircase.

Director Erickson recommended deleting the reference to the northern stairs and make it both stairs. He believed that would resolve the question of the north or the south stairs. Director Erickson stated that the Planning Commission could consider the recommendation of the City Attorney and the Vice-Chair with respect to having the City Council review those encroachments, as opposed to only the City Engineer.

Commissioner Hall asked if they could include in the condition a requirement to look back to the original stairs to see if it was changed in 2010. City Attorney Harrington replied that the Planning Commission could make a recommendation to the City Council that prior to approving the encroachment agreement, that they look at lessening the degree of the encroachment of the south stair.

Commissioner Kenworthy was comfortable addressing it in a recommendation to the City Council. He also hoped there would be a major cleanup on everything in the road. The Commissioners concurred. Commissioner Kenworthy believed approving the plat amendment would allow that process to occur.

Vice-Chair Suesser asked if they should put something in the conditions of approval informing the City Council of their concerns about setting a precedent regarding encroachments. Director Erickson clarified that a plat amendment is a legislative administrative act that needs to take place before anything else can be done. The plat amendment needs to be approved before they can address the encroachments. He stated that they could revise Condition #3 to recommend the City Council review these encroachments on this particular lot. The Planning Commission could also add commentary in the motion stating that the Planning Commission would like the City Council to review additional encroachments into the City rights-of-way and develop additional policy.

Commissioner Sletten thought it was far reaching to suggest all encroachments into the City rights-of-way. City Attorney Harrington stated that it could be segregated from the motion as a separate recommendation. The Planning Commission could also designate one Commissioner to attend the City Council meeting to explain their ongoing concerns and request that the Council schedule a Work Session on the encroachment issues.

Commissioner Sletten asked if this was an issue the City Council was already discussing. Director Erickson stated that as part of the ongoing considerations of parking the Historic District, the City Council is considering how these condominiums and duplexes from the 1980s were allowed to pull straight in off the street and take up City rights-of-way to park. As part of the parking program, the City Council was looking at additional restrictions on all of these units. Director Erickson clarified that it was under consideration with the City Council and the Planning Department as part of the Old Town Parking Management Plan.

City Attorney Harrington clarified that the City Council was not discussing structural encroachments. The Council was looking at parking management. It is a related discussion, but at this point it was not a pointed concern. Mr. Harrington thought the Planning Commission would be wise to raise that concern directly.

Vice-Chair Suesser questioned why this was being considered as a policy discussion for the City Council. She did not understand why they were not looking at the renovated staircase that protrudes further into the right-of-way and causes concern. City Attorney Harrington replied that they were not looking at it because there was nothing they could do. The encroachment can continue unless the City Council directs the owner to remove the stairs. It is a policy determination to decide whether to allow people to temporarily use unbuilt street rights-of-way. Mr. Harrington stated that it has been framed through case law as a legislative determination; whether it be vacating, giving it back to the two property owners, or allowing temporary encroachments in future planning, and it is a delicate balance. He explained that if this was a CUP application the Planning Commission could consider it based on CUP criteria. However, at this time, the only application before the Planning Commission is to remove the lot line. There is no other land use application for site planning, design review, or anything related to Code authority. Before removing the lot line, the Planning Commission needs to make a Finding that the new lot lines comply with the Code. In order to do that, the encroachments either need to be removed or granted.

Commissioner Hall believe the City had the authority within the previous encroachment agreement to revoke the encroachment at any time and could require the stairs to be removed at any time. City Attorney Harrington replied that she was correct; but it would be a policy decision and it could not be done randomly.

Commissioner Sletten pointed out that if the City starts to eliminate those types of stairways, they will no longer get applications for improvements in Old Town. Commissioner Hall clarified that she was not suggesting that the City should remove the stairs. From a function standpoint, she thought the Planning Commission should approve the plat amendment and let the City Council proceed with how best to move forward with this specific application, knowing that there is an encroachment agreement that gives the City a lot of lateral.

Commissioner Kenworthy noted that there is two-car parking and extra footage. He suggested that the applicant could put a platform where the stairs come out and go down and back to the building. Mr. Keys understood that Commissioner Kenworthy was talking about putting a platform halfway down the southern staircase that comes back towards the building. Commissioner Kenworthy stated that there would be a landing, then out four feet, and then back towards the building. He believed that would reduce a significant amount of the encroachment and not interfere with parking two cars. Mr. Keys stated that the applicant was hoping to reconfigure the parking to allow for three cars. However, they were willing to consider other options. Mr. Keys

emphasized that they cannot have any of those discussions until the plat amendment is approved to remove the lot line.

City Attorney Harrington and the Commissioners discussed changes to Condition #3 and Condition #4 to reflect the discussion this evening.

Vice-Chair Suesser stated that the Planning Commission would approve the plat amendment and approve the language to either remove the encroachments or enter into an encroachment agreement. That will move forward to the City Council, but there was not much concern about how the encroachment agreement would read. She was concerned that if the Planning Commission made a separate motion recommending that the City Council consider reviewing the encroachment policy, particularly in Old Town, that those concerns might not be connected with this application.

Commissioner Hall was prepared to make a motion and she was not opposed to combining both recommendations into one motion.

Mr. Keys asked if the Commissioners were suggesting adding a condition of approval that the City Council consider encroachment agreements generally or specifically. He wanted to know how it would apply to this project. City Attorney Harrington explained that the Planning Commission would be making a separate recommendation that did not apply to this specific application. However, in addition to the encroachment language the City Council would be considering with this approval, the Planning Commission was also recommending that the City Council take a broader look at encroachment agreements in general.

Commissioner Sletten thought it was important to be clear that the City Council did not need to make a decision on encroachments in general prior to or in conjunction with their decision on this plat amendment. He thought the condition of approval was too broad to be applied to this particular application. City Attorney Harrington stated that the Planning Commission could either make the language clearer to avoid that perception; or they could include that language in a separate motion after they vote on the plat amendment.

Commissioner Hall asked if the Staff could include the encroachment agreement as a proposed attachment to the Planning Commission recommendation. Mr. Harrington answered yes; however, he did not believe that would address Commissioner Suesser's concern. He clarified that the applicant cannot make any improvements or do any remodeling, other than internal, without reducing the degree of non-conformity.

Vice-Suesser clarified that Commissioner Kenworthy had also expressed concerns about wanting to clean up the encroachments as the application proceeds. Commissioner Kenworthy stated that if the applicant adds the landing and reverses the staircase towards the building underneath the deck, there would be room for a truck. Mr. Keys appreciated the input and Commissioner Kenworthy's experience in the area. Mr. Keys preferred to have the condition be in a separate motion to avoid any confusion about tying this plat amendment application to a broader policy discussion.

Vice-Chair Suesser suggested revising Condition #3 to read, "...or enter into an encroachment agreement with the City that includes these encroachments conditioned as the City Council deems appropriate". She thought it would give the City Council guidance regarding the concerns discussed this evening.

MOTION: Commissioner Hall moved to forward a POSITIVE recommendation to the City Council for 245 Woodside Plat Amendment, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft Ordinance, and as amended with revisions to Conditions of Approval 3 and 4.

The Planning Commission also recommends that the City Council review the overall Encroachment Agreement review process, specifically in Park City's Historic Districts. Planning Commission suggests that the City Council consider reviewing and acting as the determining body for Encroachment Agreements within these Districts, in addition to the City Engineer's review and approval. This is a separate recommendation from this Plat Amendment application.

Commissioner Van Dine seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 245 Woodside

1. The Site is located at 245 Woodside Avenue.
2. The Site is within the Historic Residential-1 District.
3. The subject Site consists of the northern half of Lot 11 and all of Lot 12, Block 31, within Park City Survey.
4. The proposed Plat Amendment creates one (1) Lot from one and a half (1½) Old Town Lots.
5. The applicant is proposing to remove the interior Lot line between Lot 11 and Lot 12, Block 31, within Park City Survey to create one (1) Lot. The interior Lot line currently bisects the Duplex Dwelling.
6. The minimum Lot size within the Historic Residential-1 District is 1,875 square feet

and 3,750 square feet for a Duplex Dwelling.

7. The proposed Lot size is 2,812 square feet. This does not meet the requirements for a Duplex Dwelling.

8. The minimum Lot width within the Historic Residential-1 District is twenty-five feet (25').

9. The proposed Lot width is thirty-seven and half feet (37.5').

10. At the time of its construction, the site was located in the Residential-1 Zoning District. The project complied with the following:

a. Required Rear Setbacks of 10 feet; complied with a Rear Yard of 28.3 feet, measured.

b. Required Building Height of 35 feet; complied with a gable roof at 24 feet and 4 inches, as measured.

11. At the time of its construction, the site did not comply with the following:

a. Required Lot Width of 37.5 feet, measured 20 feet back from the Front Lot Line; did not comply as the Structure was built over a 25' wide Lot (Lot 12) and a 12.5' Lot (Lot 11, north half). The Lots together did total 37.5' at this time, but were not actually combined.

b. Required Lot Size of 3,000 square feet; did not comply as the Lot size would have been 1,875 square feet for Lot 12 and the north half of Lot 11 would have been 937.5 square feet. Combined, the Lots would have been about 2,812 square feet and would not have complied.

c. Required Side Yard Setbacks of 5 feet; did not comply with 3 foot setbacks along the north and south property lines. This is according to the 2010 Building Permit Existing Site Plan showing a Side Setback (north) of approximately 1.75 feet. The south Side Setback is 3 feet on this plan.

d. Required Front Setback of 20 feet; did not comply with a Front Setback of 9 feet.

12. Staff believes the Structure was originally built as a Duplex, based on the 1983 Planning Department Determination Letter (Attachment 1). It is undetermined whether the house originally abided by Front and Side Setback requirements, and parking requirements of two (2) parking spaces for a Duplex Dwelling, of the R-1 Zoning District without building plans.

13. In 1976, the Site was rezoned to the Historic Residential-1 (HR-1) Zoning District. The building complies the current HR-1 Zone Height of 27 feet and the Maximum Building Footprint of 1200.5 for the proposed Lot size of 2,812 square feet, per the proposed Plat Amendment. It also complies with the Rear (10 feet) and Side (south Side, 3 feet) setbacks; however, it does not comply with the required Lot Size for a Duplex Use of 3,750, or the Front Setback of 10 feet or Side (north) Setback of 3 feet.

14. As the Site is currently configured in the Front Yard area (east), with a parking area of 225 square feet (9 feet deep by 25 feet wide within the property lines),

this site would not be able to accommodate the required 4 parking spaces for a Duplex per LMC 15-3-6.

15. In 2010, two (2) Building Permits were approved to 1) remodel the Structure from a Triplex to a Duplex (BD-10-15955) and 2) repair and add to the existing Front (east) decks, Side landings (south), and stairs (south), and add a Rear Yard deck (BD-10-15565).

16. The Planning Director has made a determination that the existing Duplex Dwelling located at 245 Woodside Avenue does not comply with current Land Management Code requirements for a legal Non-complying Structure due to the encroachments in the Front and Side Setbacks, the lack of required parking for a Duplex Use, and the evidence on record related to this property; however, the Duplex Use was allowed in 1974, per the 1968 enacted Zoning Code at the time, and our records indicate that in 1983 the Planning Department issued a letter acknowledging that the use was originally a Duplex Dwelling. There are two (2) sets of stairs on this Site that encroach onto the Woodside Avenue public Right-of-Way. The stairs along the southern property line have an existing Encroachment Agreement, recorded with Summit County as Entry No. 00919262.

17. There is a deck on this Site that encroaches into the Woodside Avenue public Right-of-Way. The deck currently projects 9 feet, as measured, from the main Structure into the Front Setback, but also projects 5 feet, as measured, past the Front property line into the Right-of-Way. It is also 27.08 feet wide, as measured. The HR-1 Zone allowed for decks to be 10 feet wide and project into the Front Setback by 3 feet. The current deck configuration exceeds this requirement. Staff believes this was permitted as the deck was existing and the dimensions were not changing per the permit's (BD-10-15565) plans.

18. All findings within the Analysis section and the recitals above are incorporated herein as Findings of Fact.

Conclusions of Law – 245 Woodside

1. There is good cause for this Plat Amendment. Although the Site currently has multiple aspects that do not conform with the Land Management Code, a Plat Amendment will prepare the property for future development by removing a bisecting Lot Line that is crossing through existing Structures. The non-complying aspects of the Site will not be allowed to be expanded.
2. The Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding Lot combinations. The Plat Amendment does not modify any of the other existing building or lot conditions.
3. Neither the public nor any person will be materially injured by the proposed Plat Amendment.

4. Approval of the Plat Amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 245 Woodside

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the Plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant shall record the Plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the Plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Prior to Plat recordation, the applicant shall either remove the existing deck, retaining walls, paved Parking Area, and stairs (both sets) encroachments from the City Right-of-Way, or enter into an Encroachment Agreement with the City that includes these encroachments conditioned as the City Council deems appropriate. The Applicant is responsible of securing appropriate City approvals and permits before any work on the encroachments can begin. The City Council review and approval of the Encroachment Agreement for this 245 Woodside Plat Amendment application, in addition to the City Engineer, will be required.
4. The Applicant may repair or maintain the existing Structure provided that such repair or maintenance shall neither create any new non-compliance nor shall increase the degree of the existing non-compliances with the LMC. The Applicant may maintain and remodel the existing Duplex Dwelling. Should the more than 50% of the Gross Floor Area of the Structure be demolished, the Structure shall be brought into compliance with the Land Management Code at the time of application. As this site does not meet the minimum Lot Size requirements for a Duplex Dwelling, the Use will also need to be brought into compliance with the LMC at the time of application. The Applicant may maintain the existing Use of the site as a Duplex, but any deviation, expansion, or demolition of the existing Structure from this Use will need to come into compliance with the requirements of the HR-1 Zoning District at the time of the application. This is pursuant to LMC 15-9-5.
5. Any future development will need to come into compliance with the Land Management Code and Historic District Design Guidelines in effect at the time of application.
6. Residential fire sprinklers are required for all new construction per requirements of the Chief Building Official, and shall be noted on the plat.
7. Ten foot (10') public snow storage easement shall be granted along the Woodside Avenue Right-of-Way.

The Planning Commission Meeting adjourned at 6:55 p.m.

Approved by Planning Commission: _____

APPROVED 11.13.19