

**PLANNING COMMISSION STAFF REPORT  
ADMINISTRATIVE ITEM**



Planning Division  
Department of Community and  
Economic Development

**MARMALADE HILL  
Conditional Use PLNPCM2012-00542 and  
Preliminary Subdivision PLNSUB2012-00543  
596 N. Wall Street  
October 24, 2012**

**Applicant:** Lily Grove

**Staff:** Maryann Pickering,  
Principal Planner,  
(801) 535-7660

**Tax ID:** 08-36-229-036

**Current Zone:** SR-1A  
(Special Development Pattern  
Residential District)

**Master Plan Designation:**  
Capitol Hill Community (Low  
Density Residential 5-15  
du/acre)

**Council District:** Council  
District 3 – Stan Penfold

**Community Council:** Capitol  
Hill

**Lot Size:**  
16,855 square feet or .39 acres

**Current Use:** One residential  
unit on the site.

**Applicable Land Use  
Regulations:**

- Title 20 – Subdivision Ordinance
- Section 21A.24.010.G – Flag lots in residential districts

**Attachments:**

- A. Proposed Subdivision
- B. Photographs
- C. Citizen Comments
- D. Department Comments

**Request**

Lily Grove is requesting a Conditional Use and Preliminary Subdivision approval for a proposed flag lot at approximately 596 N. Wall Street in order to build a new residence on the newly created lot. The existing residence at the rear of the lot will remain. The Planning Commission has final decision making authority for Conditional Uses.

**Recommendation**

Based on the findings listed in the staff report, it is the Planning Staff's opinion that overall the project generally meets the applicable standards and therefore, recommends the Planning Commission approve with conditions the request.

**Recommended Motion**

Based on the findings listed in the staff report and the testimony heard, I move that the Planning Commission approve the proposed conditional use with the following conditions:

1. If the existing sidewalk has uneven joints causing tripping hazards or is otherwise broken, the applicant needs to remedy those problems as part of this project.
2. Future development of Lot 1 will require a new drive approach per city standards.
3. Each lot shall have its own water and sewer service and meter. If those service lines must pass through a portion of another lot, then easements stating they are "privately owned and maintained" shall be prepared.
4. If storm drainage must pass through a lot then a private drainage easement must be established between the various parcels. All easements should be established and recorded by separate document and then shown and referenced on the plat.
5. Any changes to utility services require permits. Any changes should be prepared by a licensed civil engineer and then reviewed and permitted by the Public Utilities department.
6. The address for each lot shall be changed per the comments from the Salt Lake City Surveyor's Office.

## VICINITY MAP



### ***Background***

#### **Project Description**

The applicant is requesting approval of a conditional use and preliminary subdivision in order to create a flag lot in a residential zoning district. The applicant intends to leave the existing residence at the rear of the current lot and have this residence located on the newly created flag lot. The new lot created at the street or front of the property will be developed with a new single-family residence. A residence did previously exist at the front of the lot as evidenced by the concrete stairs remain today.

## Project Details

Regulation	Zone Regulation	Proposal
Use	One single-family residence per lot.	One single-family residence per lot.
Density/Lot Coverage	Maximum lot coverage is 40%.	The proposed flag lot appears to meet this requirement and the new front lot will have to meet this requirement when building plans are submitted.
Height	Maximum height for a pitched roof structure is 23 feet.	The proposed flag lot appears to meet this requirement and the new front lot will have to meet this requirement when building plans are submitted.
Front/Corner Yard Setback	Average of other front yard setbacks along the same block face.	The proposed flag lot appears to meet this requirement and the new front lot will have to meet this requirement when building plans are submitted.
Rear Yard Setback	25% of the lot depth with a minimum of 15 feet and a maximum of 30 feet.	The proposed flag lot does not appear to meet this requirement. This residence would be considering legal non-conforming. However, creation of the flag lot does not worsen this condition. The new lot will have to meet this requirement when plans are submitted.
Side Yard Setback	Four feet on side and 10 feet on the other side.	The proposed flag lot appears to meet this requirement and the new front lot will have to meet this requirement when building plans are submitted.
Minimum Lot Size	5,000 square feet	Both proposed lots meet the minimum lot size for the zoning district.
Minimum Lot Width	50 feet	Both proposed lots meet the minimum lot width for the zoning district.

### ***Public Notice, Meetings and Comments***

The Capitol Hill Community Council discussed the item at their meeting held on September 19, 2012. No written comments were received from the community council by the date of publication of this staff report. At the meeting, comments about the project were raised, specifically about the proposed house plans. The applicant stated that those plans had not been developed at this time. One email was received in support of the project (see Attachment C).

Notice of the public hearing for the proposal includes:

- Public hearing notice mailed on October 11, 2012.
- Public hearing notice posted on property on October 11, 2012.
- Public hearing notice posted on City and State websites on October 11, 2012.
- Public hearing notice emailed to the Planning Division list serve on October 11, 2012.

## **City Department Comments**

The comments received from pertinent City Departments / Divisions are attached to this staff report in Attachment D. The Planning Division has not received comments from the applicable City Departments / Divisions that cannot reasonably be fulfilled or that warrant denial of the petition.

## **Analysis and Findings**

### **Conditional Use Findings**

**21A.54.080.B. Specific Standards:** A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards set forth in this section. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use shall be denied.

**Standard 1:** The use complies with applicable provisions of this title;

**Analysis:** The site is currently developed with one residence that was constructed in the 1930's. There was another residence on the site in the past at the street side of the lot, but it was previously demolished. A set of concrete stairs leading to a front or porch area is all that remains of the former residence. Therefore, it can be concluded that this site has been used for residential purposes for some time. The applicant is requesting a conditional use to allow a subdivision to create a flag lot so that there are two lots, one for each of the residences. If the Planning Commission approves this conditional use, then the use will comply with all applicable provisions of the Zoning Ordinance.

**Finding:** Staff finds that the use will meet all applicable provisions of this title upon approval of this conditional use.

**Standard 2:** The use is compatible, or with conditions of approval can be made compatible, with surrounding uses;

**Analysis:** The proposed conditional use is located within an established residential neighborhood. There are other similar development patterns with two residences located on either one lot or a flag lot. The proposed layout of the lots and residences is similar to the historic development pattern found in the Capitol Hill area. It is unlikely that this proposed use will have a negative impact on the surrounding residential area.

**Finding:** Staff finds that the proposed lot configuration will be compatible with the nearby area and will have little to no negative impact on the surrounding uses.

**Standard 3:** The use is consistent with applicable adopted City planning policies, documents, and master plans; and

**Analysis:** The proposed use is consistent with the City planning policies, documents and plans as flag lots can be approved as a conditional use for a property if it is determined that there is no adverse affect.

**Finding:** Staff finds that because the zoning of the property allows for residential uses and flag lots can be approved as a conditional use, the proposed conditional use is consistent with City policies.

**Standard 4:** The anticipated detrimental effects of a proposed use can be mitigated by the imposition of reasonable conditions.

**Analysis:** See below.

**Detrimental Effects Determination**

In analyzing the anticipated detrimental effects of a proposed use, the Planning Commission, or in the case of administrative conditional uses, the Planning Director or designee, shall determine compliance with each of the following:

Criteria	Finding	Rationale
1. This title specifically authorizes the use where it is located.	<b>Complies</b>	The property is zoned SR-1A and flag lots can be approved as a conditional use in this zoning district.
2. The use is consistent with applicable policies set forth in adopted citywide, community, and small area master plans and future land use maps.	<b>Complies</b>	The proposed use of a residential property is consistent with the policies set forth in various plans and maps of the City. The site will be developed with residential uses in a residential zoning district.
3. The use is well-suited to the character of the site, and adjacent uses as shown by an analysis of the intensity, size, and scale of the use compared to existing uses in the surrounding area.	<b>Complies</b>	Flag lots were part of the historic development pattern in the Capitol Hill area. The residential nature of the area will not be changed by approval of this conditional use.
4. The mass, scale, style, design, and architectural detailing of the surrounding structures as they relate to the proposed have been considered.	<b>Complies</b>	There is no requirement for proposed building elevations as part of this conditional use process. Any new construction on the lot will require Historic Landmark Commission approval.
5. Access points and driveways are designed to minimize grading of natural topography, direct vehicular traffic onto major streets, and not impede traffic flows.	<b>Complies</b>	The current access drive along the north property line will remain to be used for the rear or flat lot. No change is proposed. Access to the new site will be required when a residential structure is proposed.
6. The internal circulation system is designed to mitigate adverse impacts on adjacent property from motorized, non-motorized, and pedestrian traffic.	<b>Complies</b>	The proposed use of a residential property is not expected to generate a large amount of traffic.

7.	The site is designed to enable access and circulation for pedestrian and bicycles.	<b>Complies</b>	The site is residential and does not need to have internal circulation.
8.	Access to the site does not unreasonably impact the service level of any abutting or adjacent street.	<b>Complies</b>	Access to the rear lot will remain as is. Any new access proposed with the construction of the new residence will need to be reviewed by the Transportation Department.
9.	The location and design of off-street parking complies with applicable standards of this code.	<b>Complies</b>	All off-street parking will need to be provided on-site per the requirements of the code.
10.	Utility capacity is sufficient to support the use at normal service levels.	<b>Complies</b>	Use has access to all necessary utilities.
11.	The use is appropriately screened, buffered, or separated from adjoining dissimilar uses to mitigate potential use conflicts.	<b>Complies</b>	There are no dissimilar uses in the area. The area is an existing residential neighborhood.
12.	The use meets City sustainability plans, does not significantly impact the quality of surrounding air and water, encroach into a river or stream, or introduce any hazard or environmental damage to any adjacent property, including cigarette smoke.	<b>Complies</b>	Use does not significantly impact sustainability plans nor does it encroach onto a stream or water way.
13.	The hours of operation and delivery of the use are compatible with surrounding uses.	<b>Complies</b>	The proposed use is residential. There are no proposed hours of operation or delivery times.
14.	Signs and lighting are compatible with, and do not negatively impact surrounding uses.	<b>Complies</b>	The proposed use is residential. No signs are proposed.
15.	The proposed use does not undermine preservation of historic resources and structures.	<b>Complies</b>	The site is located within the Capitol Hill Historic District. Any new construction will require historic review to ensure that it is compatible with the historic nature of the area.

### **Subdivision Standards for Approval**

A subdivision petition may be approved only if it meets the requirements specified in Section 20.20.070 of the Salt Lake City Code. The standards for approval are as follows:

#### **A. The minor subdivision will be in the best interests of the city.**

**Analysis:** The purpose of the proposal is to create two lots in order to meet the Zoning Ordinance requirements for construction of a single-family residence. The new lot will conform to the zoning requirements for parcels located in the SR-1A zoning district and would support a use consistent with the ordinance purpose statement. The purpose of the zoning district is to maintain the unique character of older predominantly single-family and two-family dwelling neighborhoods that display a variety of yards, lot sizes and bulk characteristics. Uses are intended to be compatible with the existing scale and intensity of the neighborhood. The standards for the district are intended to provide for safe and

comfortable places to live and play, promote sustainable and compatible development patterns and to preserve the existing character of the neighborhood.

**Finding:** Staff finds that the proposed subdivision will be in the best interests of the City provided the required processes in order to finalize and record the subdivision are met. The proposal meets the minimum zoning and subdivision and conditional use approval process to mitigate any adverse impacts of the development.

**B. All lots comply with all applicable zoning standards.**

**Analysis:** Staff has reviewed the property for compliance with all applicable Zoning Ordinance standards and found that it meets the minimum standards. There is a minimum lot size of 5,000 for traditional street facing lots and 7,500 for flag lots in this zoning district. Each of the lots that will be created complies with the minimum standards for the zoning district. The minimum lot width for this zoning district is 50 feet and both lots meeting this requirement. In addition, there is a requirement that the proposed access to the rear or flag lot is a minimum of 20 feet wide. This standard has also been met.

**Finding:** Staff finds that the proposed lots comply with the applicable zoning standards.

**C. All necessary and required dedications are made.**

**Analysis:** This proposal was reviewed by all applicable city divisions and departments who responded that no additional dedications are necessary for approval of the subdivision amendment.

**Finding:** There are no additional dedications required pursuant to the subdivision review.

**D. Provisions for the construction of any required public improvements are included.**

**Analysis:** As part of the review process for the proposed subdivision, various city department provided comments regarding required public improvements. Those comments have been incorporated into conditions of approval for this subdivision. Those items will need to be addressed in the future as part of the development of the new front lot.

**Finding:** Staff finds that provisions for the construction of any required public improvements have been incorporated into the conditions of approval and will be required at the time of development of the front lot.

**E. The subdivision complies with all applicable laws and regulations.**

**Analysis:** The proposed subdivision has been reviewed by pertinent city departments and divisions as to its adherence to applicable laws and regulations. No departments or divisions had objections to the request.

**Finding:** Staff finds that the amendment meets all applicable laws and regulations.

### **Standards for Flag Lots**

**21A.24.010.G. Flag Lots in Residential Districts:** Flag lots are a permitted use only as part of a new subdivision in the FP, FR-1, FR-2 and FR-3 districts. Flag lots in all other residential districts, unless being approved through the planned development process, may be allowed as a conditional use pursuant to chapter 21A.55 of this title, provided that the Planning Commission finds the flag lot proposal to be compatible with the existing pattern of property development of the surrounding area. The Planning Commission shall also make findings on the standards listed in subsections G1 through G14 of this section:

1. In residential districts other than new subdivisions in the FP, FR-1, FR-2, FR-3 districts, flag lots shall be approved only when one flag lot is proposed at the rear of an existing lot, unless being approved through the planned development process;

**Finding:** The proposed flag lot is located at the rear of the subject property.

2. Flag lots shall be used exclusively to provide lots for single-family residential dwellings;

**Finding:** The proposed flag lot is already developed with a single family dwelling. There are no plans to change that existing residence at this time.

3. All lot and yard requirements applicable to flag lots shall apply to the main body of the flag lot. For flag lots, the front yard shall begin at the point where the access strip joins the main body of the lot;

**Finding:** The existing residence on the flag lot does not meet all applicable lot and yard requirements. However, this residence would be considered non-conforming to these requirements and any additions would need to meet current lot and yard requirements.

4. Except for the special provisions contained in this subsection G, the creation of a flag lot shall not result in a violation of required lot area, lot width, yards or other applicable provisions of this title;

**Finding:** The creation of the flag lot will not violate any applicable provisions of the zoning ordinance with the exception of the existing legally non-complying rear yard setback.

5. Flag lots shall have a minimum lot depth of one hundred feet (100') measured from the point where the access strip joins the main body of the lot;

**Finding:** The depth of the flag lot is a minimum of 100 feet.

6. The flag lot access strip shall have minimum of twenty four feet (24') of frontage on a public street. No portion of the flag lot access strip shall measure less than twenty four



feet (24') in width between the street right of way line and main body of the lot. A minimum sixteen foot (16') wide hard surfaced driveway shall be provided along the entire length of the access strip. A four foot (4') minimum landscape yard shall be provided on each side of the driveway (see illustration in part VI, chapter 21A.62 of this title);

**Finding:** The proposed access strip meets the minimum requirements in terms of width. The access strip must include a minimum 4 foot landscaping strip on each side and include a minimum 16 feet hard surfaced driveway.

7. Flag lots, including the access strip, shall be held in fee simple ownership;

**Finding:** The flag lot will be held in fee simple ownership and reflected in the title report.

8. The minimum lot area of a flag lot shall not be less than 1½ times the minimum lot area of the applicable district. The lot area calculation excludes the lot access strip;

**Finding:** The proposed flag lot is a minimum of 1½ times the minimum lot size in the SR-1A zoning district. The total size of the flag lot, including the access strip, is 10,251 square feet. When the square footage of the access strip is excluding, the resulting lot size is 7,500 which meets the minimum requirement.

9. The minimum required side yard for a single story building on a flag lot is ten feet (10'). If any portion of the structure exceeds one story in height, all side yard setbacks shall meet the required rear yard setback of the underlying zoning district. The Planning Commission may increase the side or rear yard setback where there is a topographic change between lots;

**Finding:** The existing residence on the proposed flag lot meets the minimum required side yard setback of 10 feet. The existing setbacks are approximately 17 feet on the north and 12 feet on the south. Since it is a single-story residence, no additional setback is required. The existing residence meets this requirement.

10. Both the flag lot and any remnant property resulting from the creation of a flag lot (including existing buildings and structures) shall meet the minimum lot area, width, frontage, setback, parking and all other applicable zoning requirements of the underlying zoning district;

**Finding:** The flag lot and the remnant lot meet the minimum lot area, width, frontage, setback, parking and all other applicable zoning requirements in the SR-1A zoning district.

11. Any garage, whether attached to or detached from the main building, shall be located in the buildable area of the lot;

**Finding:** Any garage shall be located in the buildable area of the lot.

12. Accessory buildings other than garages may be located in the rear yard area; however, Planning Commission approval is required for any accessory building that requires a building permit;

**Finding:** No accessory structures are proposed at this time. Any future accessory structure must meet the requirements of this standard.

13. A four foot (4') wide landscaped strip is required along both side property lines from the front to rear lot lines;

**Finding:** This standard must be indicated on a landscaping plan that must be approved prior to a building permit being issued.

14. Reflective house numbers shall be posted at the front of the access strip;

**Finding:** House numbers must be clearly visible at the front of the access strip.

### ***Commission Options***

Should the Planning Commission decide to approve the application, the next step would be for the applicant to submit a final plat application and address any conditions of approval related to the proposed subdivision. When the applicant decides to submit plans for a residence on the street facing or forward lot, the plans will first need to be reviewed by the Historic Landmarks Commission because it is new construction in a designated historic district. Should a plan be approved by the Landmarks Commission, the applicant will need to submit plan for building permit review.

If the Planning Commission decides to deny the application, the existing conditions of the site with the residence at the rear of the lot will remain as they are today. If the Planning Commission determines that this project does not meet any one of the standards for conditional use and subdivision approval, a motion for denial is provided below.

**Not Consistent with Staff Recommendation:** Based on the testimony, plans presented and the following findings, I move that the Planning Commission deny the conditional use and subdivision to allow for the creation of a flag lot, located at approximately 596 N. Wall Street. The proposed conditional use will create (list the detrimental effects) which cannot be reasonably mitigated. Therefore, the proposed conditional use is not compliant with one or more of the following standards:

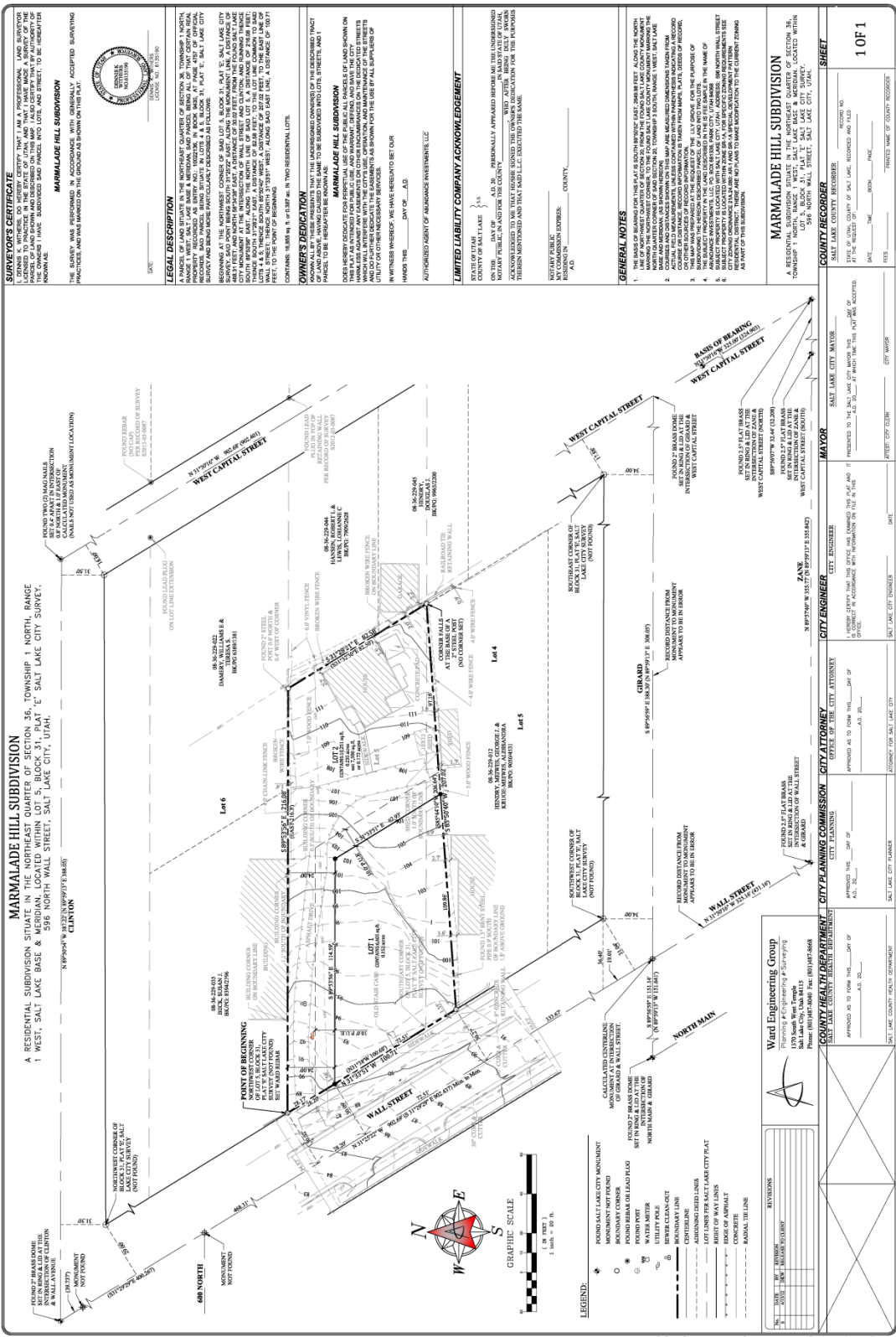
1. Compliant with Master Plan and Zoning Ordinance.
2. Compatible with the character of the site, adjacent properties, and existing development

- within the vicinity of the site where the use will be located.
3. Compatible with the character of the area where the use will be located.
  4. Will not, under the circumstances of the particular case and any conditions imposed, be detrimental to the health, safety, and general welfare of persons, nor be injurious to property and improvements in the community, existing surrounding uses, buildings, and structures.
  5. The proposed conditional use and any associated development shall comply with any other applicable code or ordinance requirement.

### **Potential Motions**

The motion recommended by the Planning Division is located on the cover page of this staff report. The recommendation is based on the above analysis. Conditional uses are administrative items that are regulated by State Law as well as City Ordinance. State law *10-9a-507 Conditional Uses* states that “a conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.” If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied. If the Planning Commission determines that this is the case, then the Planning Commission must make findings related to specific standards, identify the reasonably anticipated detrimental effects, and find that the detrimental effects cannot be reasonably mitigated.

**Attachment A**  
**Proposed Subdivision**



## **Attachment B Photographs**



*Looking east at the subject property from Wall Street.*



*Remnant stairs at the front property showing evidence of a previous residence at the front of the lot.*





*Existing driveway/access to the residence proposed to be on the rear lot.  
Note that this driveway/access will be wider should the application be approved.*



*View looking west towards Wall Street from the edge of the existing access/driveway.*





*View looking south from access/driveway at the residence on the next lot.*



*View of the existing residence on the proposed rear lot from the approximate location of the lot line that will separate the two lots from each other.*



*View of the proposed vacant lot with the access/driveway on the right.*



*View of the existing residence to the north.*



**Attachment C  
Citizen Input**

**From:** [Polly Hart](#)  
**To:** [Pickering, Maryann](#)  
**Cc:** [Capitol Hill CC Chair](#)  
**Subject:** 596 (?) N Wall St  
**Date:** Thursday, September 20, 2012 5:38:15 PM

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Maryann-

I want to send my personal thumbs up on the lot subdivision that came to the Capitol Hill Community Council last night. Rear lots are part of the historic fabric of Capitol Hill, dating back to its first settlement. I believe that this request is in keeping with flavor of our neighborhood, and it will add to the streetscape to have a house at the front of the property.

Polly Hart  
355 N Quince St  
SLC, UT 84103

## **Attachment D Department Comments**



## Work Flow History Report

### 596 N WALL St

### PLNPCM2012-00542

Date	Task/Inspection	Status/Result	Action By	Comments
8/14/2012	Engineering Review	Complete	Weiler, Scott	Addressing comments were provided to Maryann Pickering 8/14/12. If the existing sidewalk has uneven joints causing tripping hazards or is otherwise broken, we recommend that the applicant remedy those problems as part of this project.
8/21/2012	Transportation Review	Complete	Walsh, Barry	Transportation comment see PLNSUB2012-00543.



**Work Flow History Report**  
**596 N WALL St**  
**PLNSUB2012-00543**

Date	Task/Inspection	Status/Result	Action By	Comments
8/14/2012	Engineering Review	Complete	Weiler, Scott	<p>Addressing comments were provided to Maryann Pickering 8/14/12.</p> <p>If the existing sidewalk has uneven joints causing tripping hazards or is otherwise broken, we recommend that the applicant remedy those problems as part of this project.</p>
8/16/2012	Transportation Review	Complete	Walsh, Barry	<p>The public way improvements on Wall street are existing with paving curb&amp; gutter and sidewalk. For the existing residential lot 2 the drive approach is existing. For future development of lot 1 a new drive approach will be require per city standards.</p> <p>The proposed plot indicates a Flag lot with only a 17.65 foot frontage. Site development regulations require a minimum 20 foot frontage for flag lots.</p>
8/24/2012	Public Utility Review	Complete	Stoker, Justin	<p>It is unclear from the submitted documents how each lot will be provided with water and sewer services. Water meters may not be located in a drivable surface and should be located in front of the lot it services. Note that a lot may only have one water and sewer service. If those services lines must pass through a portion of another person's lot (which should be done only to locate the meter away from driveways, then easements that are "privately owned and maintained" should be established. There should be no reason for public utilities easements for private service lines.</p> <p>Note that city code prohibits storm runoff from crossing property lines. If storm drainage must pass through a lot then a private drainage easement must be established between the various parcels. Note that all easements should be established and recorded by separate document and then shown and referenced on the plat. Easements should not be defined through the minor subdivision process.</p> <p>Any changes to utility services require permits. Any changes should be prepared by a licensed civil engineer and then reviewed and permitted by the Public Utilities department.</p>