

Ordinance No. 2017-52

**AN ORDINANCE APPROVING THE VACATION OF THE JOHN DOYLE HOUSE
CONDOMINIUM PLAT AT 339 PARK AVENUE, PARK CITY, UTAH.**

WHEREAS, the owner of the property located at 339 Park Avenue has petitioned the City Council to vacate the Condominium Record of Survey; and

WHEREAS, On August 30th, 2017, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, on August 30, 2017, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on September 13, 2017, to receive input on condominium plat vacation; and

WHEREAS, the Planning Commission, September 13, 2017, forwarded a positive recommendation to the City Council; and,

WHEREAS, on October 5, 2017, the City Council held a public hearing to receive input on the condominium plat vacation; and

WHEREAS, it is in the best interest of Park City, Utah to approve the vacation of the John Doyle House Condominiums Record of Survey Plat.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. Vacation of the John Doyle House Condominium plat as shown in Attachment 1 is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 339 Park Avenue in the Historic Residential-1 Density (HR-1) District.
2. The subject property consists of the John Doyle House Condominiums approved by the City Council on September 10, 1987; it was recorded at Summit County on June 2, 1988.
3. On July 10, 2017, the Planning Department received a plat amendment application to vacate the John Doyle House Condominium plat; the application was deemed complete on August 8, 2017.
4. The John Doyle House at 339 Park Avenue was nominated to the National Register of Historic Places (NRHP) as part of the Mining Boom Era Thematic National Register District in 1984; however, it was not listed at the owner's

- request. It has since had several major alterations that have diminished its historical significance and integrity. It is no longer eligible for the NRHP.
5. The property was designated as Significant on the City's Historic Sites Inventory in 2009.
 6. The first renovation to restore the house occurred in 1986-1977 by then-owners David C. and Edward L. Cook, Jr. These owners converted the house from a single family home to a triplex.
 7. On June 17, 1986, the Board of Adjustment (BOA) granted two variances to allow the Cooks to convert the single family dwelling into a duplex with an additional sleeping unit. The variances included an exception to LMC 7.1.3(a) Lot Size to reduce the minimum lot area for a duplex from 3,750 square feet to 1,990 square feet and to reduce the minimum depth of the front yard from 10 feet to 0 feet for the construction of a garage.
 8. In 1986, a building permit was issued for the renovation of the house as well as an inline rear addition and the basement level garage addition.
 9. On June 22, 1987, the BOA granted two additional variances as part of the rehabilitation of the property. They granted an exception to LMC 15 7.1.3(a) Lot Size to reduce the required lot size of a triplex from 5,625 square feet to 1,990 square feet as well as an exception to LMC 13.3(a) Required Off-Street Parking to reduce off-street parking demand from five (5) spaces to four (4).
 10. The property was renovated again in 1996 by new owners, and it appears the illegal conversion to create a single-family dwelling was done as part of this renovation. The recorded John Doyle House Condominium plat had been recorded at the county in 1988 and was still in place at the time of the 1996 renovation.
 11. On April 2, 2012, the Planning Department issued a letter informing current owner Chris Casey that there were issues related to his proposal to enclose a back staircase as the existing home exceeded allowable footprint and the proposal did not comply with LMC 15-9-6 Noncomplying Structures.
 12. On January 31, 2013, Chris Casey submitted a Historic District Design Review (HDDR) Pre-application to enclose the rear stairwell constructed in 1986. On February 4, 2013, the Planning Director found that based on the applicable code requirements and existing conditions, the current structure was noncompliant in regards to footprint, setbacks, and allowed stories based on the requirements of the HR-1 zoning district and, therefore, the stairwell foundation could not be used to achieve an enclosed rear addition to the home.
 13. On February 13, 2017, the applicant appealed the Planning Director's determination. The BOA voted unanimously to deny the appeal and upheld the Planning Director's determination on May 7, 2013. The BOA found that enclosing the existing exterior stairwell would increase the degree of nonconformity of a noncompliant structure.
 14. On December 13, 2013, an appeal of the BOA's determination was reviewed by Third Judicial District Court. The Court found that the BOA had correctly interpreted the definition of building footprint and that the BOA's decision that the enclosure of the rear stairs increased the overall building footprint of the structure and thereby increased the degree of existing non-conformity that was

reasonable.

15. The property owner proposes to vacate the John Doyle House Condominium Record of Survey that created a total of three (3) units.
16. A condominium is not a type of use but a form of ownership.
17. The proposal for a single family dwelling complies with the allowed uses in the HR-1 District.
18. Lot 10, Block 3 of the Park City Survey contains 1,877 square feet. This is greater than the minimum lot size required for a single family dwelling which is 1,875 square feet.
19. The minimum lot width in the HR-1 District is 25 feet; Lot 10 is 25.03 feet in width.
20. The required front yard setback is 10 feet in the HR-1 District; the existing garage has a 0 foot front yard setback as permitted by the variance of 1986.
21. The required rear yard setback is 10 feet in the HR-1 District; the applicant has a 17 foot setback.
22. The required side yard setback is 3 feet in the HR-1 District; the Existing building has a .95 foot setback on the north side and 1.17 foot setback on the south side due to the construction of the original historic house and addition.
23. The proposed vacation of the Condominium Record of Survey Plat is appropriate as the requested form of ownership is not detrimental to the overall character of the neighborhood. Further, it will memorialize existing conditions as the house was already converted to a single-family dwelling during the 1996 remodel.
24. Staff has met with the Building Department to identify and determine any non-complying items that would prevent the existing triplex from being reverted back to a single-family dwelling. As the house was remodeled in the 1990s back to a single-family home, staff finds that the house has a single Kitchen, as defined by LMC 15-15-1.
25. A Kitchen is defined by the LMC as an enclosed Area for the preparation of food and containing a sink, refrigerator, and stove.
26. The applicant has proposed a Lock-Out Unit in his building permit plans for the house remodel. A Lock-Out Unit is defined by the LMC as an Area of a dwelling with separate exterior Access and toilet facilities, but no Kitchen. Nightly rental of a Lockout Unit requires a Conditional Use Permit in the HR-1 zoning district.
27. An Accessory Apartment is defined as a self-contained Apartment, with cooking, sleeping, and sanitary facilities, created either by converting part of and/or by adding on to a Single-Family Dwelling or detached garage. Accessory Apartments are a Conditional Use in the HR-1 zoning district. No Accessory Apartment has been approved for this site.
28. The site is not located within the Sensitive Lands Overly District. There are no known physical mine hazards.
29. The site is not located within the Soils Ordinance Boundary.
30. The process to vacate a condominium plat is the same as amending an existing plat amendment. Staff's finds that there are no non-conformities that would be created by the removal of the condo plat and the existing underlying lot of record complies with the requirements of the LMC.
31. The applicant recorded a Declaration of Termination to abandon the condo plat

- on April 28, 2017. It is Entry No. 01068385.
32. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law:

1. The Condominium plat vacation is consistent with the Park City Land Management Code and applicable State law regarding vacating a condominium record of survey plats.
2. Neither the public nor any person will be materially injured by the proposed plat vacation.
3. Vacation of the Condominium Plat, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

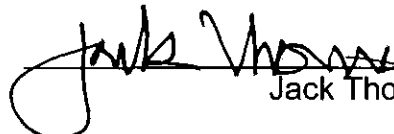
Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the recordation documents for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the documents at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat vacation 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. A Lockout Unit is an allowed use in the HR-1 zone; however, any Nightly Rental of a Lockout Unit requires a Conditional Use Permit.
4. The applicant shall not construct a Kitchen in the Lockout Unit, else it will become an Accessory Apartment. A Kitchen contains a sink, refrigerator, and stove; whereas a Kitchenette contains a sink, refrigerator, and an electric outlet which may be used for a microwave oven. No 220V outlet for a range or oven shall be provided in the Lockout Unit.
5. When the condo plat is vacated, the property will revert back to a single lot of record within the Park City survey. Only one (1) dwelling unit will be permitted within the structure.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 5th day of October, 2017.

PARK CITY MUNICIPAL CORPORATION


Jack Thomas, MAYOR

ATTEST:

Michelle Kellogg
Michelle Kellogg, City Recorder



APPROVED AS TO FORM:

Mark Harrington
Mark Harrington, City Attorney

Attachment 1 – Proposed Plat

This property description will revert back to:

All of Lot 10, Block 3, Park City Survey, Summit County, Utah

