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Chairman Jared Clayton commented that the main concern he has with the 8-foot fence is to make sure that they are built the right way.

James Sorensen commented that once a fence goes to 8 feet high, a permit has to be taken out an engineering has to be done and reviewed by staff.

Monica Collard moved that the Planning Commission forward a positive recommendation to the City Council to adopt the proposed ordinance amendment as shown in Exhibit "A" of the staff report, based on the 2 reasons outlined in the staff report.

Lisa Hartman seconded the motion. The vote was as follows: Monica Collard, yes; Lisa Hartman, yes; Cheri Burdick, yes; Ron Mortimer, yes; Joe Baker, yes; Jared Clayton, yes. The vote was unanimous in favor.

2. Miles Olsen Special Exception
8862 South 220 East [Community #4, Historic Sandy] SPEX-6-16-5099

The applicant, Miles Olsen, requested a special exception to allow the continuance of a nonconforming use. The property owner would like to add on to one of two homes on a single lot located at 8862 S. 220 E.

The property located at 8862 S. 220 E. is 0.52 acres (22,651 sq. ft.) zoned R-1-7.5(HS). The property is a legal nonconforming lot due to two homes existing on the property. The property is bordered to the north, east and west by single-family homes zoned R-1-7.5(HS). To the west of the property is the UTA Trax Historic Sandy Station.

The primary residence is 1,130 sq. ft. built in 1946, and is located on the north side of the property. The secondary residence is 1,120 sq. ft. built in 1955, and is located on the south side of the property. The secondary home is used as a rental property, with the property owner living in the primary home. The two homes predate the Sandy City Development Code and subdivision regulations. The lot is part of the Sandy Station Subdivision, the original plat of the city.

Staff would recommend that the Planning Commission evaluate this request and determine if the hardship is self-imposed. If the Planning Commission does approve the application, staff recommends the following findings and conditions:

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Findings:

- 1) The alteration, movement, enlargement or addition is in keeping with the intent of the Sandy City Development Code.
- 2) The proposed alteration, movement, enlargement or addition will not impose undue burden upon the lands located in the vicinity of the nonconforming structure.
- 3) The structure does not encroach further into the required setbacks beyond which has previously legally been approved.
- 4) No additional dwelling units are added to the building or structure.

Conditions:

- 1) A subdivision plat application is submitted within one year upon the approval of the application.
- 2) That the primary residence be constructed as proposed by the Historic Committee and as required in the tier two Sandy Development Overlay Zone, such as a front porch, window trim and sills, etc.
- 3) The Structure meet the Historic Overlay Zone design requirements as outlined in the Sandy City Development Code.

Wade Sanner presented this item to the Planning Commission.

Miles Olsen, 8862 South 220 East, Sandy, applicant, stated that he is requesting an addition on his home.

Bryce Dallimore, indicated that he drew the home for Miles and wanted to answer any questions on behalf of Miles. He stated that there is a third structure on the property, which is an attached garage associated with the north home. He stated that in that attached garage there is also some living space there, which consists of approximately 800 to 900 square feet. He stated that they are making this a better situation because they are getting rid of the attached garage. He also mentioned that that they want to ultimately subdivide this property. He stated that they want to get the building going on this now on a contingency that they will ultimately subdivide.

Commissioner Monica Collard commented on obtaining a building permit and that in order to get a building permit, you have to have a subdivision.

Mr. Dallimore responded that they are applying right now to do it before the subdivision. He indicated that there are already two homes sitting on the lot and they are just applying for an addition on it. That is pushing them to subdivide. He believes they are bringing it into compliance by getting rid of the detached garage.

Wade Sanner indicated that occupancy can be held up on the building by not issuing a Certificate of Occupancy for the structure until a subdivision application comes in.

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Commissioner Cheri Burdick confirmed that that meant that they wouldn't be able to move into the house until a subdivision has been applied for. She also confirmed that the applicant is already living in the home.

Wade Sanner stated that they can hold up occupancy on the building

Chairman Jared Clayton asked if they didn't have the second house on the property, couldn't they just do the addition.

Mr. Sanner responded that they could. There would only be one home.

Mr. Dallimore indicated that they have proposed this and gone through the Historic Committee and had a review and there was one last item that came up in the meeting and that was this perpetuation. He stated that they have been reviewed as far as planning goes and that is where they are stuck.

Commissioner Joe Baker believes there may be concerns with the title and financing. He asked if he would be able to get a loan without a clear title.

Miles Olsen stated that it would benefit him to subdivide because there are two homes on the property and it's almost impossible to get a loan. He stated that he is at a fixed rate right now and he believes that splitting this property will be will be good for him to get a good rate. He indicated that he will be doing the work on the house with his father-in-law, who owns a construction company.

Commissioner Joe Baker commented that he believes this is being done backwards and he doesn't know why the Planning Commission isn't entertaining a petition to subdivide. He believes that this should be done right with a clear title on both sides. He supports Mr. Olsen in wanting to improve his home, but he believes it should be done right.

Mr. Dallimore responded that they have considered that. He indicated that Mr. Olsen wants to get going right away and get it going for this year. He stated that they have submitted preliminary drawings and believes that the planning department is on board with the subdivision. He believes that because they are helping a non-conforming situation, they can almost ask for the perpetuation without the subdivision because they are enhancing the non-conforming situation.

Commissioner Joe Baker responded that they could ask that, but it would not likely be approved because the Planning Commission requires, through these kinds of upgrades, that it be brought into conforming. Under the petition before the Planning Commission, one of the conditions is

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that he apply for subdivision within a year. He believes that it should happen right now and be done right.

Mr. Olsen responded that it would put them back three months before they start construction.

Mr. Dallimore responded that they are taking a non-conforming structure right out of the picture.

Commissioner Joe Baker responded that they are not becoming conforming and that is the requirement of the City.

Mr. Olsen commented that he has a growing family and is in a tight little house. He would like to get on this quickly.

Mr. Dallimore commented that even though they are removing one of the non-conforming situations, they are not coming into full non-conformance. They recognize that. But they are asking for perpetuation of the non-conformance. That's the whole application.

Brian McCuiston commented that most of the lots that have two homes on them are in Historic Sandy.

James Sorensen commented that the wording really is expansion of a non-conforming use.

Commissioner Lisa Hartman commented that the bottom line is that it is not going to change what they are doing or how they're doing it. The question is how to get them to make sure that they do in fact do it so it does come into compliance.

Commissioner Joe Baker commented that he is impressed with them wanting to improve their home. He encourages and supports reconstruction, upgrading, and investing in this neighborhood. He feels strongly that it needs to be done according to Code.

Chairman Jared Clayton opened this item to public comment and there was none.

Joe Baker moved that the Planning Commission deny this application for upgrading and encourage the applicants to come back at a future date with a petition for subdividing and expect the Planning Commission's full support in pushing that through and getting this done legally and right.

Cheri Burdick seconded the motion. The vote was as follows: Joe Baker, yes; Cheri Burdick, yes; Monica Collard, no; Ron Mortimer, no; Lisa Hartman, no; Jared Clayton, yes. The vote was three to three. Motion tied and failed.

Monica Collard moved that the Planning Commission approve the request to expand the non-conforming use based on the four findings and three conditions in the staff report, with the fourth condition that occupancy of the new addition may not be granted until the subdivision application has been submitted.

Ron Mortimer seconded the motion. The vote was as follows: Monica Collard, yes; Ron Mortimer, yes; Cheri Burdick, no; Lisa Hartman, yes; Joe Baker, no; Jared Clayton, yes. The vote was four to two in favor of the motion.

Chairman Jared Clayton recused himself from the next item and left the meeting.

3. Sandy City Centre Amended – Preliminary Subdivision
277 West Sego Lily Drive [Community #9, South Towne] SUB-2-16-4943

The applicant, Dan Simons of Simons Realtors, requested preliminary subdivision approval from the Planning Commission for an amendment to the Sandy City Centre Plat. No special exceptions or conditional uses are being requested.

This plat amendment is being done in conjunction with The Prestige site plan application. Due to the location of existing property lines, this amendment was necessary to make sure the proposed building met setback requirements. The plat will also dedicate land for the future extension of 10080 South Street and for the existing Monroe Street improvements which were never officially dedicated.

Staff recommends that the Planning Commission approve the Preliminary Subdivision for the Sandy City Centre Amended Plat located at 277 West Sego Lily Drive, subject to the following conditions:

1. That the applicant complies with each department's comments and redlines throughout the final review process and that all issues be resolved before the subdivision can be recorded.
2. That all City provisions, codes and ordinances are adhered to during the review, construction and operations process of this project.
3. That the minimum amount of dedication for side improvements as dictated by Staff, is acquired through the site plan process for any future development of the properties to the north or south of 10080 South Street.

Andrew King presented this item to the Planning Commission.