

PARK CITY MUNICIPAL CORPORATION  
HISTORIC PRESERVATION BOARD  
APRIL 6, 2011

BOARD MEMBERS IN ATTENDANCE: Roger Durst, Ken Martz, Dave McFawn, David White, Judy McKie

EX OFFICIO: Thomas Eddington, Katie Cattan, Francisco Astorga, Polly Samuels McLean, Patricia Abdullah

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SITE VISIT

1101 Norfolk Avenue – Grant (Application #PL-11-10095)

A site visit at 1101 Norfolk Avenue took place from 5:00 p.m. to 5:30 p.m. All Board members were present with the exception of Sara Werbelow and Brian Guyer.

REGULAR AGENDA

ROLL CALL

Chair Durst called the meeting to order at 5:36 p.m. and noted that all Board Members were present except Board Members Guyer and Werbelow, who were excused.

Chair Durst welcomed Judy McKie, the new Board member. He asked Ms. McKie to introduce herself with a brief description. Ms. McKie moved to Park City from San Francisco in August. She has a degree in history from Berkeley and worked as a business systems analyst for five years. She became interested in historic preservation when she purchased a property that is on the National Register. She and her husband formed a company called Preservation Green. Their interest was primarily in sustainability, but they quickly learned that sustainability and preservation go hand in hand.

MINUTES OF MARCH 2, 2011

MOTION: Board Member Martz moved to APPROVE the minutes of March 2, 2011 as written. Dave McFawn seconded the motion.

VOTE: The motion passed unanimously. Board Member McKie abstained, since she was not present at that meeting.

PUBLIC COMMUNICATIONS

Jeff Love stated that he had also interviewed for the position on the HPB, and during his interview with the City Council he had raised an issue regarding the HDDR process. The Council suggested that he take his comments to the HPB.

Mr. Love remarked that based on issues that came up during his HDDR process, he started thinking of ways to make the process better for future applicants. There is conflicting information in the design guidelines and LMC that he thought should be corrected. Mr. Love stated that currently the process does not include a directed meeting when the full application is done. He felt it was important for the applicant to

have the opportunity to convey their project to the Design Review Team. The Code is vague on this point. He noted that the full HDDR application still has pre-application information, which conflicts with the new HDDR application. Mr. Love strongly believed there should be a 3<sup>rd</sup> DRT meeting once the full application is reviewed. Potential issues could be discussed or corrected at that meeting, which could streamline the process by two to four weeks.

Mr. Love had other suggestions that he could submit in writing instead of taking their time this evening. Chair Durst asked Mr. Love to submit his suggestions to the Planning Department.

Planning Director Thomas Eddington, stated that the Staff had already discussed some of the recommended changes with Mr. Love. He noted that the Design Guidelines is a living document that evolves, and he looked forward to working with Mr. Love in an effort to make the process better.

#### BOARD MEMBER/STAFF COMMUNICATIONS

Planner Katie Cattan reported that on March 31<sup>st</sup> the City Council approved a Transfer of Development Rights Ordinance. This benefits historic preservation because the ordinance places a sending zone over the entire Historic District. Historic homes with buildable area for expansion or addition would have the ability to obtain transfer of development rights, and the additional area could be sent to a receiving site. Owners within the Historic District can now be compensated for the area they choose to protect. However, in doing so, they would have to put a conservation easement on their property, which would include an agreement that the home could not be further expanded. Planner Cattan stated that the ordinance is a great preservation tool that has been successful in cities like Denver, San Francisco and Miami.

Planner Cattan reported that the ordinance is a new chapter within the LMC. It is Chapter 2.24, an overlay zone for transfer of development rights. She noted that currently there is a 1:1 transfer for development credits. The City Council tasked the Staff with doing appraisals on different sending and receiving zones to determine whether the 1:1 is accurate or if it needs to be increased to incentivize preservation. Planner Cattan stated that the ordinance is available to historic sites listed on the historic inventory and all vacant lots within the historic district.

Planner Cattan intended to prepare a pamphlet that explains the ordinance. She pointed out that applicants will be informed of the ordinance when applications are submitted, however, it is only an option and not mandatory.

Board Member Martz thought it would be helpful to have a model of how the TDR works, and suggested a mock application process.

Board Member McKie clarified that if an owner of a vacant lot sends his ability to build to a sending zone, a conservation easement would be placed on the lot and the lot could never be developed. Director Eddington replied that this was correct. The lot would be deed restricted from future development.

Director Eddington thanked Roger Durst and Roger Evans for arranging the tour of the McPolin Barn. It was a good tour and everyone learned a lot. He believed there may be

some opportunities to look at recommendations for use of the McPolin barn, as well as other city owned historic structures.

Chair Durst held further communications until after the regular agenda, to accommodate a Board member who needed to leave early.

## PUBLIC HEARING/ACTION ITEMS

### 811 Norfolk Avenue Ratification of Findings (Application #PL-11-01198)

Planner Cattan reported that the Planning Commission was being asked to ratify the findings for the 811 Norfolk Avenue appeal. She explained that on March 7<sup>th</sup>, the HPB heard an appeal and overturned the Staff's findings.

Planner Cattan explained that at the time of the appeal, the findings were different from what the HPB determined that evening. The objective this evening was for the HPB to make a decision on whether or not the Staff made the correct findings based on direction given at the last meeting.

Planner Cattan stated that once the HPB adopts the findings, she would prepare an action letter that will be sent to the applicants stating the exact findings of facts, conclusions of law, and conditions of approval. Once an action letter is sent out, the appeal period begins for anyone who wishes to appeal the HPB decision.

Planner Cattan requested a change to condition of approval #7, which states that the approval will expire in one year if a building permit has not been issued. After speaking with the applicant, she changed the one year time to 15 months. She noted that typically the approval is conditioned on a one year time frame, however, that is dependent on the Building Department's review of the building permit application, as well as the Planning Department and the City Engineer. The Staff agreed with Mr. Love's suggestion of extending the time to 15 months.

MOTION: Board Member Martz made a motion to modify Condition of Approval #7 to increase the building permit expiration to 15 months after approval. Board Member McFawn seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Board Member McFawn made a motion to ratify the Findings of Fact, Conclusions of Law, and Conditions of Approval found in the Staff report, with the correction to Condition of Approval #7 as stated in the previous motion. Board Member White seconded the motion.

VOTE: The motion passed unanimously.

Board Member Martz favored the ratification process for complex appeals, because it clarifies the action taken by the Board, without having to discuss the findings, conclusions and conditions within the meeting of the original appeal. Board Member Martz recommended that the ratification process become a standard policy in the appeal process.

Assistant City Attorney McLean remarked that the Staff's recommended findings and conclusions are a good starting point and includes all the legal requisites. However, if significant changes are made to the findings and conclusions, ratification is typically done. Ms. McLean stated that the Board Members could request that the Staff come back with new findings and conclusions based on the discussion, to be ratified at the next meeting. She advised that it was better to have the Staff write findings and conclusions based on the Staff recommendations, and revise them later if necessary.

Board Member McFawn pointed out that the only time ratification would occur after the appeal meeting is when the Board counters the Staff recommendation. If that occurs new findings would need to be drafted and ratified at a second meeting. If the Board agrees with the Staff recommendation, the findings and conclusions would be ratified with the motion to uphold the determination.

Board Member McKie wanted to make a comment regarding sending and receiving zones, using 811 Norfolk as an example to make her point. Assistant City Attorney McLean preferred that she not use 811 Norfolk, and offered to help Board Member McKie craft a different scenario for the next meeting.

Director Eddington recommended that the HPB schedule a work session to discuss the TDR ordinance. The Board concurred.

#### Findings of Fact – 811 Norfolk Avenue

1. The site is 811 Norfolk Avenue.
2. 811 Norfolk Avenue is listed as a Landmark Site on the Park City Historic Sites Inventory.
3. The tax ID associated with 811 Norfolk Avenue is SA-138 and is made up of the north half of Lot 2 and all of Lot 3. The tax ID associated with all of Lot 4 and the South 3 feet of Lot 5 is SA-139-A.
4. The Landmark Structure on the property sits on Lots 2 and 3 and encroaches 3 feet onto Lot 4.
5. Lot 4 is a lot of record and may be developed.
6. The Historic District Design Review application was originally submitted to the Planning Department on October 6, 2010. Staff requested additional information from the applicant in order to deem the application complete. The application was deemed complete by the Planning Department on October 28, 2010.
7. The Planning Staff noticed the application pursuant to LMC Section 15-1-12 and 15-1-21. The initial fourteen (14) day noticing period was completed on November 11, 2010 at 5pm.
8. The Planning Staff provided the applicant with comments regarding the proposed design on November 22, 2010.
9. Revisions to the design were received by the Planning Department on January 13, 2011.
10. The application proposed to relocate the existing Landmark Structure from the original location. The application proposes to move the home 6.5 feet to the south and keep the orientation to the street as it has historically been oriented.

11. A Landmark Site must retain the Landmark Designation. Within the LMC Section 15-11-10(A)(1), the criteria for designating Landmark Sites is stated. The January 13, 2001 revised design would result in the Landmark Site meeting the criteria set forth in the LMC for Landmark Sites.
12. LMC Section 15-11-12(D)(1) requires that an application shall be denied if the Planning Department determines that the application does not comply with the Design Guidelines.
13. On March 2, 2011, the Historic Preservation Board determined that the January 13, 2011 revised design brought the previous design issues into compliance with the Design Guidelines.
14. The application complies with the Historic District Design Guideline (HDDG) E.I.I as follow:
  - “Relocation and/or orientation of historic buildings should be considered only after it has been determined by the design review team that the integrity and significance of the historic building will not be diminished by such action and the application meets one of the criterion listed in the side bar to the left (as follow). In the HRL, HR1, HRM and HRC zones, existing historic sites that do not comply with building setbacks are considered valid complying structures. Therefore, proposals to relocate and/or reorient homes may be considered only:
    1. If a portion of the historic building encroaches on an adjacent property and an easement cannot be secured; or
    2. If relocating the building onto a different site is the only alternative to demolition; or
    3. If the Planning Director and Chief Building Official determine that unique conditions warrant the relocation or reorientation on the existing site.”
15. LMC 15-11-13(a) states the criteria for the relocation of historic buildings on a Landmark Site. It states: “It is the intent of this section to preserve the Historic and architectural resources of Park City through limitations on the relocation and/or reorientation of Historic Buildings, Structures, and Sites,” and lists the same criteria for consideration of movement of homes as listed in HDDG E.I.I with one (1) additional criterion which states, “The Planning Director and the Chief Building Official determine that unique conditions warrant the proposed relocation and/or reorientation to a different site.”
16. The Landmark Structure at 811 Norfolk Avenue encroaches 3.5 feet onto Lot 4 and an encroachment easement cannot be secured.
17. Lot 4 was sold for \$200,000.00 and it was a legitimate real estate transaction.
18. The Landmark Structure may remain on site and abate demolition.
19. The Chief Building Official did not determine that unique conditions exist to warrant the proposed relocation and/or reorientation on the existing site. There are no unique building code conditions on the site. There are numerous homes in Park City which encroach over property lines which can be mitigated through spacing, fire sprinkler systems, and building materials.

20. The Planning Director did not determine that unique condition exist to warrant the proposed relocation and/or reorientation on the existing site. There are no unique planning conditions on the site. There are examples of historic structures through Old Town that encroach onto neighboring properties which can be mitigated through the site planning and design solutions.
21. The Planning Director and the Chief Building Official did not determine that unique conditions warrant the proposed relocation and/or reorientation to a different site.
22. The HPB stated support for the movement of the Landmark Structure to create greater spacing between homes as long as the Landmark Structure is not jeopardized and continues to be a Landmark Structure on the Park City Historic Sites Inventory.
23. Spaciousness of the existing streetscape on that portion of the Norfolk Avenue would be lost if another building was built within the permitted three feet of the existing historic house.
24. The HPB reviewed plans dated January 13, 2001. The plans date stamped on March 30, 2011 are in substantial compliance with the plans date stamped January 13, 2001, with the following changes: expanded living area under the front porch that is not visible from the exterior of the building, a larger window in the window well, and a change in the roofline on the North elevation between the Landmark Structure and the new addition.
25. The findings within the analysis section are incorporated within.

#### Conclusions of Law – 811 Norfolk Avenue

1. Pursuant to LMC Section 15-11-12(d)(1) the application is approved because the proposed project complies with the Design Guidelines and the LMC 15-11-13(a) criteria for the relocation of Historic building and structures on a Landmark Site.

#### Conditions of Approval – 811 Norfolk Avenue

1. Receipt and approval of a Construction Mitigation Plan (CMP) by the Building Department is a condition precedent to the issuance of any building permit.
2. Final building plans and construction details shall reflect substantial compliance with the drawing stamped with approval by the Planning Department on March 30, 2011.
3. Any changes, modifications, or deviations from the approved design shall be reviewed and approved by the Planning Director prior to their construction. Any formal request for design modifications submitted during construction may result in a stop-work order by the Chief Building Official until the modifications are approved.
4. The designer and/or applicant shall be responsible for coordinating the approved architectural drawings/documents with the approved construction drawings/documents. The overall aesthetics of the approved architectural drawings/documents shall take precedence. Any discrepancies found among these documents that would cause a change in appearance to the approved

- architectural drawings/documents shall be reviewed and approved prior to construction. Failure to do so, or any request for changes during construction may require the issuance of a stop-work order for the entire project by the Chief Building Official until such time that the matter has been resolved.
5. The Landmark Structure shall not be disassembled or reconstructed. The home must be preserved. Any deviation from the approved set of historic district design guideline plans must be documented and approved by the Planning Department in writing prior to changes being made during construction.
  6. A Financial Guarantee for the Landmark Structure must be collected by the City prior to issuance of a building permit.
  7. If a building permit has not been issued within 15 months of this approval, this HDDR approval will expire.
  8. The preservation plan must be followed in the field. Any existing historic materials to be replaced must be documented and approved in writing by the Planning Department. Deteriorated or damaged façade shall be repaired using recognized preservation methods. If disassembly of a historic element is necessary for its restoration, recognized preservation procedures and methods for removal, documentation, repair and reassembly shall be used. If historic exterior materials cannot be repaired they should be replaced with materials that match the original in all respects; scale, dimension, texture, profile, material and finish. The replacement of existing historic material shall be allowed only after the applicant shall show that the historic materials are no longer safe and/or serviceable and cannot be repaired to a safe and/or serviceable condition.
  9. It is of paramount important that the integrity of the Landmark Structure be maintained. The preservation plan shall be strictly adhered to.
  10. Replacement windows will only be allowed only if the historic windows should exactly match the historic window in size, dimensions, glazing, pattern, depth, profile and material.
  11. There is evidence that historically window/doors existed and were later enclosed. During construction, the Architect will better document the historic window openings and bring in details to reintroduce the historic openings if found.
  12. Exterior lighting has not been included with the application. All exterior light fixtures should be compatible with the building's style, period and materials, but should also be down-directed and shielded.
  13. Prior to a building permit being issued, the applicant must attend a final meeting with the Design Review team to verify that the final building plans comply with all the necessary provisions, conditions and requirements of the Planning and Building Department. The applicant's Construction Contractor and Architect are required to attend this meeting.
  14. The Design Review Team will conduct a final inspection to verify the project was executed in accordance with the approved plans. The applicant must contact the Project Planner to set up the final inspection prior to Certificate of Occupancy.
  15. A survey by a licensed surveyor must be submitted to provide evidence that the final grade has been returned within two feet of the original grade as outlined in the submitted preservation plan.
  16. All standard conditions of approval shall apply.

Order:

1. Appeal from applicant is affirmed. The Historic District Design Review is approved as provided in the Findings of Fact, Conclusions of Law and Conditions of Approval as stated above.

1101 Norfolk Avenue - Grant  
(Application #PL-11-01195)

Planner Francisco Astorga reviewed the application for a Historic District Grant reinstatement at 1101 Norfolk Avenue. He noted that all the Board members present this evening had attended a site visit that day at 5:00 p.m. Planner Astorga clarified that there was no discussion during the site visit regarding this specific application. However, the Board discussed the Historic Design Review Process in general and the grant process.

Planner Astorga reported that in August 2009 the HPB approved a grant in the amount of \$18,046 for eligible work to rehabilitate 1101 Norfolk Avenue. The work included, but was not limited to, siding, windows, foundation work, masonry repair, structural work, retaining walls, steps, and stairs of historic significance, including exterior trim, doors, cornice repair and porch repair.

Planner Astorga stated that the original application specifically requested the funds to lift the existing front portion of the house to build a crawl space foundation, replace the existing contemporary front door, replace the windows to match original size and style, to restore and replace the siding to match the original wood siding around the north shed extension, to rebuild the floor and walls to insure adequate stability, and to replace minor exterior porch posts. Because the requested items complied with the grant criteria, the HPB awarded the grant. Following that approval, a Historic Design Review was done and a building permit was issued. From that point on, the work performed did not match the plans reviewed for the HDDR and the building permit, and the Staff placed a stop work order to try to mediate the situation.

Planner Astorga remarked that the property owners started working with a different contractor to make sure the structure would not fall from the Historic Sites Inventory. The site is listed as a landmark site. After consulting with the City architect and the Historic Preservation Consultant, the Staff determined that the site would remain a landmark site with the overall improvements.

The Staff recommended that the HPB review the re-instatement request for a Historic District Grant and award the applicant a portion of the costs associated with the remodel. Planner Astorga explained that the Staff recommendation was for half of the amount based on the excellent work the owners did to mediate the situation, but also due to the original deviation of compliance with the approved plans. He noted that the HPB had the ability to reinstate the entire amount or to withhold all of the allocated funds to the applicant.

Steve and Laura Atkins, the applicants, had prepared a presentation for the HPB.

Mr. Atkins thanked the Board for coming to their home for the site visit. Mr. Atkins stated that he and his wife are proud of what they have done to their home and they were requesting that the HPB consider awarding the full grant amount. He explained that they

live in Michigan and when construction started, they were in Michigan having their first child. During that same timeline they saw four inspection reports from the City Building Department passing the work that was being completed. From their perspective, everything was going as planned. Mr. Atkins took full responsibility for what happened, as well as for what they did to correct the situation that was created by the first contractor. Mr. Atkins was grateful for the work a second contractor had done to help them complete the project this summer.

Laura Atkins stated that when she purchased the historic home in November 2003, the house was deteriorating, the porch was falling off, there was no furnace, there was standing water in the bathtub, and moldy carpet. For all she went through, she dreamed of the day the house would look like it does today. Ms. Atkins stated that in the winter of 2008-2009, they were expecting their first child, and decided it was time to find the money to fix the house and make it safe for their family. From the beginning, the intention was to maintain its historic integrity. Part of their decision to re-do the house was based on the ability to apply for a grant that would pay for half of the necessities work. Ms. Atkins noted that she and Steve are from Michigan, but they have every intention of keeping the house and eventually moving to Park City full-time.

Mr. Atkins presented detailed pictures to show what the grant money was going towards. Ms. Atkins noted that one of the criteria for the grant is that funds are awarded to projects that provide a community benefit of preserving and enhancing the historic architecture of Park City. She believes they have done that. The house looks almost identical to how it was in the 1930's and they have not added square footage or put on any additions. The only changes were heat, insulation and other necessities to make the house comfortably livable.

Planner Astorga stated that during the site visit he met a neighbor, Craig Weaver, who asked him to convey his comments this evening. Mr. Weaver thought Steve and Laura Atkins had done a great job on the remodel. He and his wife are very happy with the end result and the structure is much better than it was before.

Planner Astorga reiterated Ms. Atkins' comment that this is one of the few remodels in old town that did not request additional square footage.

**Board Member White left the meeting at 6:25 p.m.**

Chair Durst opened the public hearing.

Brian Van Hecke, a resident at 1101 Empire Avenue, stated that he is a neighbor close to the residence at 1101 Norfolk. Mr. Van Hecke has lived in the neighborhood for over 15 years and he has seen this house before and after. The transformation of the house is truly amazing and so much better. The passion and love that was put into the house clearly shows. Mr. Van Hecke was unsure of the specifics in terms of right or wrong in the process, however, from his standpoint, the Atkins did a great job of upholding the integrity of the house and the integrity of the historic community in Old Town. He could not imagine why the HPB would withhold any of the grant money that was originally awarded and deserved. They have truly restored the house and it is the perfect use of grant money to preserve the town.

Chair Durst closed the public hearing.

Board Member McFawn asked if enough qualifying work was done to justify the full \$18,046 grant that was awarded. Planner Astorga answered yes.

Board Member McFawn wanted to know when additional funds would be replenished into that particular RDA fund. Director Eddington replied that the fiscal year is July. The City Council will be looking at the RDA Funds, as well as other General Fund and Capital Improvement Project funds between now and then. The Staff is looking at other opportunities to increase those funds to provide more grants for incentivizing this type of historic preservation. Currently the only available funding is what is in the RDA.

Board Member McFawn noted that the HPB previously set a precedent of not approving funds once work has been completed. He believed this request was an exception because the owners were not applying for the initial grant. The grant had been applied for and approved, and the issue was process. The end result was the same and he did not think it was cause for concern.

Board Member Martz thought the applicants had complied with the basic process. He also appreciated the oversight of the Planning Department in catching the error and informing the applicants, who then moved forward to address the situation. Board Member Martz stated that this was the type of project that was awarded grants in the 1980's and '90's. He appreciated the process and was pleased with the result. Board Member Martz was involved in the original grant process. The grant was approved and the work was done. The problem is that the work was not done correctly, but that was reversed and the issue was resolved. He agreed with Board Member McFawn that this grant was not being approved after the fact. Board Member Martz was comfortable reinstating the total grant amount of \$18,046.

Director Eddington felt it was important to note that when the Staff brought this to Mr. and Mrs. Atkins' attention, they were not confrontational and worked very diligently to correct the problem.

Board Member McKie thought the house reflected Mr. and Mrs. Atkins' strong preservation spirit. Ms. Atkins had stated that she wanted her house to be an example for preservation in Park City, and Board Member McKie felt it was a shining example of what preservation could be. She noted that this house not only has landmark status, but it is also on the National Register. Board Member McKie thought it was important to implement a policy where owners are told about the process of obtaining an NPS approval to make sure any proposed work would not jeopardize the National Register status. Board Member McKie pointed out that if Steve and Laura Atkins had gone through the NPS process, their project qualifies for State Historic tax credits. This is a huge benefit because 20% of what they spend comes back as a tax credit. She suggested that they look in to it because it may not be too late to apply.

Chair Durst complimented Mr. and Mrs. Atkins on their accomplishment. He understood that an award of half the amount was the penalty for a bad circumstance, but he was inclined to grant the full amount. Chair Durst complimented the Building Department for not altering a non-complying railing on the porch, in order to sustain the original look. He felt the difference was a marginal risk and it contributes to the original look of the building. Chair Durst supported awarding the full amount of the grant.

Director Eddington noted that it was actually the Planning Department that fought for the original railing.

MOTION: Board Member McFawn made a motion to APPROVE the original full grant of \$18,046. Board Member Martz seconded the motion.

VOTE: The motion passed unanimously. Board Member White was not present.

Chair Durst reported that the City sponsored him to a special seminar in New York two weeks ago, regarding green and preservation. He was disappointed in the presentation and thought the presenter did a poor job. The presenter had worked on a vintage project, which was a colonial structure in San Antonio, Texas, and had achieved A LEED Platinum rating. Chair Durst stated that there were also discussions with restoration contractors and a few other architects from the Eastern Seaboard. He requested that time be scheduled for the next meeting where he could present a summary and share it with the Board.

Chair Durst thanked the Staff for the opportunity to visit the McPolin Barn. It was the first time he had been inside the barn, and in his opinion, it is truly an iconic building. It reminded him of the area he calls Miner's Village along Deer Valley Drive. He felt it was important for the HPB to have a work session with regards to the potential that some of these properties outside of the Historic District might have to the community.

The meeting adjourned at 6:36 p.m.

Approved by \_\_\_\_\_  
Ken Martz, Chair  
Historic Preservation Board