

PARK CITY MUNICIPAL CORPORATION
HISTORIC PRESERVATION BOARD
MINUTES OF NOVEMBER 13, 2013

BOARD MEMBERS IN ATTENDANCE: David White, - Puggy Holmgren, Marian Crosby, John Kenworthy, Gary Bush Hope Melville, Clayton Vance

EX OFFICIO: Kayla Sintz, Anya Grahn, Polly Samuels McLean, Patricia Abdullah

ROLL CALL

Chair Pro-Tem White called the meeting to order at 5:08 p.m. and noted that all Board Members were present except Board Member Kenworthy, who arrived later.

ADOPTION OF MINUTES

August 7, 2013

MOTION: Board Member Holmgren moved to APPROVE the minutes of August 7, 2013 as written. Board Member Bush seconded the motion.

VOTE: The motion passed unanimously.

August 21, 2013

Board Member Bush moved to APPROVE the minutes of August 21, 2013 as written. Board Member Crosby seconded the motion.

PUBLIC COMMUNICATIONS

There were no comments.

STAFF/BOARD COMMUNICATION & DISCLOSURES

Planning Manager Sintz stated that the HPB would elect a Chair at the next meeting.

REGULAR MEETING - Discussion, Public Hearing and Possible Action.

1. 632 Deer Valley Loop – Determination of Significance
(Application PL-13-02094)

Planner Anya Graham stated that the Historic Sites Inventory is the go-to resource in terms of determining whether or not buildings and structures in Park City are Significant or Landmark.

Planner Grahn reported that a question was raised regarding the significance of 632 Deer Valley Loop. The owners had received a Notice and Order from the Building Department. The property previously owned by the BLM was in litigation for 30 years. As part of the Notice and Order it was brought to their attention that the Historic Sites Inventory form for this particular property may not have been as thorough as it could have been. Planner Grahn clarified that the discussion this evening was strictly to determine whether or not the structure should remain significant on the Historic Sites Inventory.

Planner Grahn stated that the building was previously identified as historic in 1995 on a reconnaissance level survey that the City conducted, but it was not included in a 1982 Historic District architectural survey. The 2009 HSI recognizes that it is a Hall-Parlor plan that has a compatible but non-historic side addition, and it has lost much of its historic integrity due to exterior changes to its materials.

Planner Grahn provided background and history of the site as outlined in the Staff report, and presented slides showing photos of the original structure and how it was changed over time. Planner Grahn reiterated that the focus this evening was on historic significance and not the condition of the building.

Planner Grahn stated that the LMC defines that any building, (main, attached, detached or public), accessory buildings and/or structures can be designated to the Historic Sites Inventory as a Significant Site if it meets the following criteria:

a) The site must be at least 50 years old or has achieved significance in the past 50 years if the site is of exceptional importance to the community.

The Staff believed the structure at 632 Deer Valley Loop complies because the Sanborn maps show that it was built between 1900 and 1910, making it over a 100 years old.

b) The site retains its essential historic form and that major alterations were not made to the actual form of the building.

Planner Grahn explained that changes that could alter the significance include changes to the main roof of the primary façade. She explained why the Staff believed the structure at 632 Deer Valley Loop retains its essential historic form. She indicated the side gable that was built with the Hall-Parlor Plan and the rear addition.

c) Has the site achieved importance in local or regional history, architecture, engineering or cultural association.

Planner Grayn pointed out that as implied by the HSI, the structure at 632 Deer Valley Loop is historically significant to their understanding of the Mature Mining Era. The building is located in what used to be the red light district and it was of the few remaining buildings.

Planner Grahn pointed out the difference between the criteria for Significant and Landmark Designations. To be considered a local landmark the site needs to be at least 50 years old, retain its historic integrity in terms of location, design, setting, materials, and workmanship as defined by the National Park Service for a National Register. It also needs to be significant in local, regional or national history. Planner Grahn explained that the structure at 632 Deer Valley Loop would not comply because the loss of materials makes it ineligible for the National Register of Historic places.

Planner Grahn recommended that the Planning Commission conduct a public hearing and find that the criteria outlined shows that the building meets the criteria as defined by the LMC as Significant; according to the findings of fact and conclusions of law outlined in the Staff report.

Board Member Melville understood that there was not an application to remove the structure from the Historic Sites Inventory. Planner Grahn stated that when the Staff was working with the owners to resolve the Notice and Order, the Planning Director recommended that the Staff should come before the Historic Preservation Board and reiterate that the structure should be left as Significant on the HSI because it meets the criteria. Planner Grahn clarified that if the structure had not met the criteria, she would be making a recommendation to remove it from the HSI.

Board Member Melville noted that the original exterior siding was underneath a couple of layers of siding. She asked if that could be removed to bring it back to Landmark status. Planner Grahn stated that she had asked Cory Jensen with the State Historic Preservation Office the same question, because many of the historic homes have the retained historic materials but it is buried underneath other materials. Mr. Jensen told her that it depends on how much of the historic material was retained and how much could be salvaged. It also depends on how much of the historic material stayed intact during remodeling. Planner Grahn believed that things could be done to possibly return the structure at 632 Deer Valley Loop to Landmark Status and possibly on the National Register.

Board Member Bush asked why the structure was not on the 1985 survey. Planner Grahn was unsure. She stated that the reason could be because it was on BLM land and not within the Old Town core in the area designated as the Historic District. Planner Grahn remarked that a number of sites are outside of the Historic District but remain on the Historic Sites Inventory.

Board Member Bush asked if anyone knew the shape and size of the parcel that the house sits on. Planner Grahn replied that there was not a survey with that information.

Board Member Holmgren noted that the earlier surveys were not very accurate. One survey shows her house as being built in 1957, but it is substantially older. Her other house was not even on the survey. She believed the current surveys are the most accurate.

Madeline Smith, the owner, asked when it was changed from not being in the Historic District to coming into the Historic District. Planner Grahn replied that it was included in the HSI in 2009. Ms. Smith stated that as the owner she was never noticed. Otherwise, she would have dealt with it in 2009. Planner Grahn asked Ms. Smith if she was the owner in 2009. Ms. Smith stated that she has owned the property since 1979. Planner Grahn stated that she could not speak to past notification. She was not with the Planning Department when the Design Guidelines were revised in 2009 and the LMC was amended.

Board Member Holmgren stated that no one was noticed. The survey was done and adopted by the City Council. Board Member White concurred. Patricia Abdullah clarified that every property owner was noticed if their structure was going on the inventory. She recalled that because this was still on BLM land, the notice would have gone to the BLM.

Assistant City Attorney McLean stated that one reason why the Planning Director decided to bring this application to the Board was due to the possibility of a noticing discrepancy. This process allows the owners the opportunity to have the determination of significance evaluated by the HPB.

Board Member Vance asked when Ms. Smith took possession of the property. He was told that it was in 1980. Board Member Vance wanted to know how that coincided with the BLM owning it in 2009.

William Bertagnole, the applicant, provided a brief history. He explained that in 1980 it was purchased from Mary Dudley. During the process, Ms. Dudley's husband passed away and they got a quit claim deed from her. Two years later he received a letter from the BLM and the Mining Company telling them to get off their property. They had unpatented mining claims, which meant nothing, and they continued to try to make Mr. Bertagnole leave. He received another letter from the BLM informing him that he did not own the mineral rights and he needed to leave. Mr. Bertagnole refused to leave and it ended up in a 33 year court battle until the Spring of 2013. Mr. Bertagnole always understood that they were not in the Historic District and the building has been remodeled so much that the

historic elements and materials were gone. Mr. Bertagnole noted that a renter had started a fire in the back of the house and it destroyed the interior.

Chair Pro Tem White pointed out that the original structure is still intact. Mr. Bertagnole agreed that the structure was there but it is not on a foundation and the house is crooked. Chair Pro Tem White remarked that the T111 siding is covering the original historic material and it would have to be inspected to know how much of the original material was retained. Chair Pro Tem White stated that the basic form, shape, size and mass of the house is still there, regardless of what occurred on the interior.

Board Member Bush asked what Mr. Bertagnole intended to do with the structure. Mr. Bertagnole stated that he started the process when he was 30 or 40 years old, and at that time he probably would have rebuilt it. He is now 72 and he would like to sell it. Board Member Bush agreed that the building is badly damaged because it was left unattended for a long time, and it would be difficult to salvage any material. However, the form is still intact. If Mr. Bertagnole wanted to rebuild the form with in-period material, it was something he could support. Board Member Bush did not believe anyone on the HPB expected Mr. Bertagnole to make the old wood beautiful. The HPB was interested in saving or re-creating the form of the historic structure. Mr. Bertagnole replied that at his age he was not interested in building anything.

Board Member Bush asked if Mr. Bertagnole was looking for a clean lot that he could sell. Mr. Bertagnole stated that he has had developers contact him wanting to purchase the property. He pointed out that the fire department, the police department, and the building inspectors have all said that the structure was trash. Three or four years ago the former Building Official, Ron Ivie, begged him to tear it down. However, he could not tear it down because it was his claim to the BLM since it was sitting on BLM ground. Mr. Bertagnole explained that he was very young when he purchased the home and was not aware that it was on BLM ground. His plan at that time was to tear down the house and rebuild. After spending years of time and money working on the house and he had no interest in rebuilding it now. All he wants is the ability to sell it so someone else could rebuild it. He is now faced with the issue of the structure being on the Historic Sites Inventory.

Board Member Bush understood that Mr. Bertagnole wanted to get the value out of the home without redeveloping. He also understood that the developers who approached Mr. Bertagnole were not interested in buying unless they could tear down the house. Mr. Bertagnole replied that he wants to tear down the house because it is unsafe and a danger to the neighborhood. Construction people use the property to store materials and others use it as a dump. There have been drug and transient problems and the City has been after him to do something

about it. Therefore, he applied to demolish the house. His other choice is to cover it up, but plywood can be pried off and the problems return.

Chair Pro Tem White clarified that the issue before the Board this evening was whether or not to keep the Significant Site designation.

Board Member Bush stated that based on that issue, two of the three criteria were very clear. The material is gone but the form and age support keeping the Significant designation. He understood the hazards it poses to the property owner, but he was unsure how that could be addressed based on the criteria.

Chad Root, the Chief Building Official, stated that like Ron Ivie he had issued a Notice and Order early last year when it was still BLM property. Mr. Root clarified that the City has no jurisdiction on federal or state entities. Therefore, when the ownership transferred to Mr. Bertagnole earlier this year, another Notice and Order was sent informing him that the structure needed to either be demolished or repaired. The Building Department later found out that the structure was listed as historically significant and the Notice and Order was changed to repair the structure. Mr. Root stated that the Building Department was looking at a mothballing effort in terms of repairing the damaged areas to protect from weather; and also boarding up the doors and windows from the inside to keep out transients.

Mr. Bertagnole could not recall every being told that he could put plywood on the inside of the windows, and he could not recall ever being told to repair it. All the documents he read from any of the City entities have been to tear it down. Mr. Root clarified that the newest Notice and Order took away the option to tear it down because it is historic.

Planner Grahn stated that per the LMC, the City does not favor demolition of buildings because it ruins the urban fabric and the history is lost. If restoration is not an option due to the dilapidated state of the building, there is always panelizing and reconstruction. She believed that was the only option at this point.

Ms. Smith did not believe it was right that four years ago things suddenly changed and the structure was considered to be in the Historic District. She noted that it was ten years after the fire and it was impossible to repair or restore the house to its historic form.

Board Member Holgrem concurred with Board Member Bush that the structure meets the criteria for a Significant designation.

Board Member Bush pointed out that Mr. Bertagnole was stuck with a liability regarding safety issues. Mr. Bertagnole remarked that he is unable to insure the house and he would be personally liable. Board Member Bush stated that a chain link fence could be installed around the house but people would still find a way in. He stated that typically an owner wants to redevelop and the HPB would ask them to incorporate the form into their design, and to use as much material as possible. However, in this case, the owner only wants to eliminate a liability and has no interest in rehabilitating the house in any way. He asked if removing the liability could be tied to a commitment to rebuild that form with the land. The owner would no longer have the liability and the City could retain the Significant structure.

Planner Grahn stated that through the Historic District Design Review process one option could be for the owner to tear down the structure but provide the financial guarantee and document the historic building. The City would retain the financial guarantee until the structure is reconstructed or meets what was approved with the HDDR. Planner Grahn stated that even though it was an option, the issue before the HPB this evening was determination of significance. She explained that the City was sympathetic to the liability issue and the Planning and Buildings Departments have been trying to find a workable solution for Mr. Bertagnole.

Board Member Melville asked if there was a City program that could assist in securing the building. Mr. Root stated that the Building Department has an abatement program, which is a fund to abate certain structures and to assist; however it is a revolving fund. The City secures the doors and mothballs the building, and if the owner is not able to pay it back to the City, the money is recouped through their taxes.

Chair Pro Tem White opened the public hearing.

Bob Martin a resident across the street at 595 Deer Valley Loop, felt this matter was interconnected with a number of issues. He was unsure of the BLM situation with the City; however, he understood that the structure at 632 Deer Valley Loop sits in the middle of the BLM piece. Mr. Martin stated that those four homes sit across from house and he has been the epicenter of the construction phase of Deer Valley Drive. Mr. Martin was unsure whether the City intended to work a deal with the BLM over this piece of property, but he believed the house is historic. This house and the other three houses that sit on that piece of property are the only things remaining from the red light district of Park City. Mr. Martin preferred that the City do something that piece of property rather than sell it to a developer. His attempts to get answers from the City or the BLM have been unsuccessful. Mr. Martin thought it was legitimate for the HPB to make a decision regarding the significance of the structure, but he also felt it was

important for the City to have a plan. He asked if the property with the other three houses was settled with the BLM. He noted that someone lives in one of those structures. Mr. Martin would like the City to put in a historic park rather than to allow development. His understanding was that the land would be traded and he could be looking at a large condo development on the last piece at the entrance to Deer Valley. Mr. Martin remarked that in terms of historic preservation, it was important to focus on the bigger picture. He has three ribbons on his fence indicating that his home is historic. His home and another home are the only two that still exist inside the Loop. Those two and the four homes on BLM land are the only historic homes in that area.

Sandra Morrison, with the Park City Historical Society and Museum thanked the City for a terrific job creating the Historic Sites Inventory in 2009. They hired an extremely well qualified consultant who spent from 2006-2009 identifying all the historic structures in Park City. She noted that both the Historic Preservation Board and the City Council held public hearings before the HSI was adopted. Ms. Morrison welcomed anyone who wanted to do additional research to use the library at the Park City Museum. Ms. Morrison also commended the City on the decision to hire Cooper Roberts to conduct an intensive level survey, which she believed would answer some of the questions raised this evening regarding the amount of historic fabric remaining on the building. She recognized that some of the questions could not be answered tonight, but the Historical Society Museum fully supported the Planning Department and the listing of this house on the Historic Sites Inventory because it is a historic house. Ms. Morrison was pleased to hear about the mothballing effort and she believed it was a good interim plan. She offered the help of the Historical Society Museum and encouraged the owners to contact her.

Alison Kitching, a resident at 670 Deer Valley Loop Drive, stated that her patio in the Portico Townhome complex was adjacent to the structure at 632 Deer Valley Loop. She is single and lives alone and she was uncomfortable having drug dealers next to her in that home. She has had to call the police twice to report activity outside the house. Ms. Kitching requested that the HPB do something with the structure that would help her feel secure. She thought she was moving into a safe community environment and she still believed that it was a good place to live. However, it would be better if the HPB could help with that issue. Ms. Kitching enjoys being around historic homes and that was one of the reasons why she moved to that area. She preferred that the house not be torn down and the property redeveloped. Ms. Kitching encouraged a solution where the current owners could work with a developer to stay within the same footprint and architecture and redeveloped in a way that fits the area.

Chair Pro Tem closed the public hearing.

Board Marian Crosby understood that the cost of mothballing the home would be the responsibility of the owner, and if the owner was incapable of paying for it that it would be added to the taxes and paid when the property is sold. Mr. Root explained that the responsibility goes to the owner. If the owner does not follow through with mothballing and taking care of the property, the City abates it under the Abatement of Dangerous Building code. At that point, the City hires a contractor to mothball the structure and cover the windows and doors. He was told that the burned out portion on this structure was not historic because it was a shed addition to the back of the house. Mr. Root stated that the main purpose is to protect the historic structure. The shed may come down because so much of it is burned out.

Board Member Crosby asked if the burned out shed could be demolished as part of mothballing. Planner Grahn replied that from the Sanborn map it looks like the shed or at least a portion of the shed is historic. However, the Staff would have to research it further to be sure. Board Member Crosby asked if there were cost estimates. Mr. Root replied that the Building Department had not obtained any estimates.

Board Member Holmgren reiterated that the HPB was only being asked to determine whether the structure should remain on the HSI as a Significant structure. Any other issues were not for discussion this evening. Planner Grahn stated that if the Board was interested in the abatement issue, she could bring it back as a work session item to give them a better understanding of the process as it applies to Old Town.

Board Member Melville understood that part of the process for removing a site from the Inventory was that the owner has the burden of proving that it did not meet the criteria and that it should be removed from the list. Assistant City Attorney McLean explained that this particular issue was more of a hybrid. The HPB should evaluate it based on the criteria outlined in the Staff report from the standpoint of whether or not it meets the criteria of Significant. She noted that in 2009 when the structures were listed on the Inventory, all the owners were noticed. If the owner disagreed with the finding, they had the ability to have the HPB look more specifically at their structure to determine whether or not it was significant. Because of the issues with the land and the possibility that only the BLM was noticed and not the homeowner, the Staff felt it was appropriate for the HPB to relook at the determination.

Board Member Melville clarified that the issue was unique to this property because of the BLM and owner dispute. She wanted to make sure the HPB would not be setting a precedent that all properties on the Historic Sites Inventory would have to be reconfirmed. City Attorney McLean replied that this was a unique situation because of the ownership issue.

Board Member Melville believed the criteria were clear for this structure to remain a Significant site. The house is 50 years old. In comparing the 1938 photo with the current photo, it has retained its essential historical form. It also meets the criteria of local history due to its importance to the mining era.

Board Member Holmgren felt strongly that the structure was significant.

MOTION: Board Member Holgrem moved to keep the property at 633 Deer Valley Loop listed on the Historic Sites Inventory as a Significant Historic Site, in accordance with the Findings of Fact and Conclusions of Law outlined in the Staff report. Board Member Crosby seconded the motion.

VOTE: The motion passed. Board Member Kenworthy was not present for the vote.

Findings of Fact – 632 Deer Valley Loop

1. 632 Deer Valley Loop is within the Residential-Medium Density (RM) zoning district.
2. There is an existing side gable hall-parlor structure at 632 Deer Valley Loop. This structure is currently listed on the Park City Historic Sites Inventory as a “Significant” Structure.
3. The existing structure has been in existence at 632 Deer Valley Loop since circa 1900. The structure appears in the 1904 and 1927 Sanborn Fire Insurance maps. Furthermore, the Historic Site Form contains tax cards of the structure from 1949, 1958, and 1969. A late-1930s tax card photo also demonstrates that the overall form of the structure has not been altered.
4. The hall-and-parlor structure and later rear addition were both constructed within the Mature Mining Era (1894-1930) and are historic.
5. Though out of period, the enclosed side porch entrance added in the 1960s does not detract from the historic significance of the structure.
6. The existing structure is in serious disrepair and is not habitable in its current dangerous condition.
7. There is very little original exterior materials remaining on the exterior of the home. The original wood lap siding has been covered by layers of Bricktex and vertical wood siding.

8. The double-hung windows on the façade were removed and expanded to install larger, undivided rectangular windows after 1969. The original wood double hung windows throughout were replaced by aluminum windows.
9. After 1969, the turned wood porch posts were replaced with new decorative metal columns. A brick chimney was installed above the enclosed side porch that was later repaired with thick layers of Portland Cement.
10. The structure is a hall-parlor plan and typical of the Mature Mining Era.
11. The rear addition of the structure, dating prior to 1927, was severely damaged in a fire on May 17, 1999.
12. The site meets the criteria as Significant on the City's Historic Sites Inventory.
13. Built circa 1900, the structure is over fifty (50) years old and has achieved Significance in the past fifty (50) years.
14. Though the structure has lost its historic integrity due to the out-of-period alterations to its historic materials, it has retained its historical form. The out-of-period addition to the west elevation of the structure does not detract from its historic significance.
15. The structure is important in local or regional history because it is associated with an era of historic importance to the community, the Mature Mining Era (1894-190).

Conclusions of Law – 632 Deer Valley Loop

1. The existing structure located at 632 Deer Valley Loop meets all of the criteria for a Significant Site as set forth in LMC Section 15-11-10(A)(2) which includes:
 - (a) It is at least fifty (50) years old or has achieved Significance in the past fifty (50) years if the Site is of exceptional importance to the community; and
 - (b) It retains its Essential Historical Form, meaning there are no major alterations that have destroyed the Essential Historical Form. Major alterations that destroy the Essential Historical Form include:
 - (i) Changes in pitch of the main roof of the primary façade if 1) the change was made after the Period of Historic Significance; 2) the change is not due to any structural failure; or 3) the change is not due to collapse as a result of inadequate maintenance on the part of the Applicant or a previous Owner, or
 - (ii) Addition of upper stories or the removal of original upper stories occurred after the Period of Historic Significance, or
 - (iii) Moving it from its original location to a Dissimilar Location, or

- (iv) Addition(s) that significantly obscures the Essential Historical Form when viewed from the primary public Right-of-Way.
- (c) It is important in local or regional history, architecture, engineering, or culture associated with at least one (1) of the following:
 - (i) An era of Historic importance to the community, or
 - (ii) Lives of Persons who were of Historic importance to the community, or Historic Preservation Board.
 - (iii) Noteworthy methods of construction, materials, or craftsmanship used during the Historic period.

Board Member Kenworthy arrived.

2. 820 Park Avenue, Rio Grande – Appeal of Staff’s Determination
(Application PL-13-02108)

Planner Grahn requested that the HPB review this appeal de Novo. They were looking at it anew to find whether or not unique conditions exist to move the building. Planner Grahn emphasized that the discussion should not focus on the design or what could be built on the site.

Planner Grahn reported that Planning Director Thomas Eddington and Chief Building Official Chad Root had written a determination letter stating that unique conditions did not exist for this site. She had provided the Board with a copy of Director Eddington’s testimony, since he was out of town. Mr. Root was present to testify for himself.

Chair Pro Tem White asked if any Board member had disclosures related to this appeal.

Board Member Bush disclosed that he has worked with the appellant, Rory Murphy, on projects in the past. He did not believe that association would interfere with his judgment on this appeal. He and Mr. Murphy have no current business dealings.

Assistant City Attorney McLean stated that if any of the Board members had anyone speak to them outside of this meeting concerning the appeal, that should also be disclosed, as well as the content of the conversation, since this was a quasi-judicial hearing.

Jeff Love disagreed with Board Member Bush’s assessment of his relationship with Rory Murphy. Assistant City Attorney McLean clarified that Board Member Bush is entitled under the State Code to make a disclosure how he wishes.

Board Member Crosby asked if Ms. McLean was referring to Board members who may have talked to each other about the appeal prior to the meeting, or if they had spoken with people outside of the Board. Ms. McLean replied that it was either of those situations. For example, if they were approached by someone in a grocery store or on the street, or were sent emails talking about the content of this appeal hearing, they would have to disclose that communication just as a judge would in a court of law. The disclosure gives everyone the benefit of having the same information.

Board Member Crosby disclosed that she had conversations with two people outside of this hearing regarding general information about the site and homes in the area and the 800 block. She clarified that it was nothing different from what was included in the Staff report.

Board Member Holmgren disclosed that she has known Rory Murphy for many years casually and socially. She also spoke with Steve Boyd in the hallway and he told her he was here this evening for the Rio Grande Building. Board Member Holmgren stated that she had spoken with Gary Kimball this morning to see if he had any recollection on the building. Mr. Kimball told her that he could not recall anything.

Chair Pro Tem White disclosed that he has heard hearsay about the project, specifically regarding the movement. However, he regards what he heard as hearsay and it would not have any bearing on his judgment.

Assistant City Attorney McLean advised the Board members who have had outside conversations that their decision should only be based on the evidence before them this evening.

Chair Pro Tem White stated that the comments he heard were no different than what was in the Staff report.

Planner Grahn reiterated that in order to move a building, the Building Official and the Planning Director have to make the determination that unique conditions exist. In this case, they found that no unique conditions existed and this was an appeal of their determination for relocating the Rio Grande building at 820 Park Avenue.

Planner Grahn provided background and history of the site as outlined in the Staff report. The Historical Society had also provided a thorough report to Mr. Murphy that gave the same information. The Utah Central Railroad came to Park City in 1890 and seven years later the railroad was acquired by the Rio Grande Western Railroad. Around that time the Queen Anne passenger depot was constructed along with a freight shed. In 1901 the Coalition Building was built

nearby and became part of the site. By the 1940's there was less need for rail transportation and the railroad abandoned the line and closed the Park City branch. A short time later the Coalition Building was vacated. The Queen Anne structure was demolished, as well as two-thirds of what was the Rio Grande Building and the freight shed, leaving the one-third of the building that exists today. In 1982 the Coalition Building burned down.

Planner Grahn reported that the applicant was proposing to relocate the structure to the corner of 9th Street and Park Avenue. The building would be moved approximately 30 feet to the north and 10-feet to the west. The applicant plans to develop the site as mixed use, commercial and residential.

Planner Grahn noted that the LMC is very specific about relocation and/or reorientation of historic buildings and it must meet the following criteria:

- 1) the proposed relocation and/or reorientation will abate demolition of the Historic Building(s) and/or Structure(s) on the Site; or
- (2) the Planning Director and Chief Building Official determine that unique conditions warrant the proposed relocation and/or reorientation on the existing Site.

In the letter that the Planning Director and the Chief Building Official sent out on October 9th, they stated that no evidence existed to support that the structure was previously moved. They said the relocation would not abate demolition as the threat does not exist. Relocating the structure in order to expand and make more room for development on the site was not a condition specific to this site or these applicants.

Planner Grahn outlined the Appellant's objections as follows:

- In its current location, there is no historic context for the Rio Grande Building.
- The relocation will make the Rio Grande Building visually prominent.
- The relocation will allow for the restoration of some of the historical context of the Rio Grande Building.
- Less than 30-35% of the original structure remains.
- The Rio Grande must be relocated during construction because the site has contaminated soils.
- The foundation of the Rio Grande Building is not the original foundation.
- Other considerations.

Planner Grahn stated that Mr. Murphy was correct in pointing out that there is no historic context left because of the buildings that were lost, and only a third of the building exists. The site changed from a very industrial site to a residential and

resort related development neighborhood. However, at the same time this Depot is historically significant to the City's transportation past.

Planner Grahn commented on the issue Mr. Murphy had raised regarding visual prominence. He believes the relocation would make the building more of a visual focal point and part of the gateway into downtown. Mr. Murphy had also pointed out that the site is severely compromised by the location of the building as it exists today and any new development would obscure and consume the historic structure. Planner Grahn stated that the Staff did not disagree that relocation would permit greater visibility, enhance the neighborhood and also serve as a gateway; however, relocating it again for new development is not a unique condition and does not necessarily meet the unique conditions outlined by the LMC.

Planner Grahn remarked that there is also the issue of the restoration of historic context. The applicant had discussed that relocating it to a corner on Park Avenue and 9th Street gives it more of a historic context with today's transportation, even though it had been part of a railroad transportation network. The Staff finds that transportation elements cannot be swapped. The Staff did not believe the historic context would be restored by moving it closer to the street.

Planner Grahn stated that Mr. Murphy pointed out that less than 30-35% of the original structure remains and an accurate reconstruction is now possible due to the existing commercial development. Planner Grahn remarked that Mr. Murphy was right because most of the freight shed was destroyed in the late 1940's, early 1950's and only a third of the structure remains. Reconstruction is impossible because there are new condos and development in the area that used to be the Coalition site.

Mr. Murphy also pointed out the relocation during construction. Planner Grahn stated that it would have to be lifted in order to incorporate an underground parking structure and soil remediation is necessary. As they have seen in Old Town, houses are temporarily relocated in order to add a new foundation. However, that did not justify relocating to a permanent location.

Planner Grahn commented on the argument of whether or not the structure was previously moved. They found that the existing foundation was not the original foundation, and that the foundation shows changes in wood grain and age that allude to a previous relocation. That has been supported in several letters by old time Parkites and everyone believes it was moved. Unfortunately, the Staff was unable to find evidence to show that it was moved. Planner Grahn stated that it is possible that the foundation is not the original. The building is supported by tree logs and it seems unlikely that it would have held up with heavy trains

coming by. She had reached out to the State Preservation Office and they said it was not unlikely in mining towns to put up a building quickly and they used whatever materials were available.

Planner Grahn explained how they overlaid a current aerial photograph on to the 1907 Sanborn map to try and determine whether the building was previously moved. It appears that the structure has not been relocated. Planner Grahn stated that in addition to the Sanborn map, they also looked at historical photographs. She reviewed the photos to show how they made their determination.

Mr. Murphy also argues that the goals of historic preservation are best served by the relocation. If relocation is not allowed, it would be visually impaired by the new development. The relocation will showcase the historic structure. Planner Grahn reiterated that unique conditions must exist for the Planning Director and the Chief Building Official to warrant relocation.

Planner Grahn stated that the HPB had the option to deny the appeal and uphold the Staff determination; they could grant the appeal and reverse the Staff determination; or they could continue the item.

Assistant City Attorney McLean stated that another alternative would be to deny or grant the appeal in whole or in part. Findings supporting either side were contained in the Staff report. If the Board finds that any of those should be changed, it should be part of their motion.

Planner Grahn noted that Exhibit H in the Staff report provides Findings of Fact for granting the appeal if the Board needed that as a reference.

Rory Murphy, the Appellant, stated that he was before the HPB this evening to discuss the project at 820 Park Avenue, commonly referred to as the Rio Grande Building, and to discuss their appeal for the Staff ruling on his proposal. Mr. Murphy clarified that he did not want to be critical of the Staff, and he simply disagreed with their findings. He stated that the objective this evening was to consider this appeal and to find at least one unique condition that warrants moving the shed on the site.

Mr. Murphy clarified that he was not currently proposing any demolition of the existing structure, nor were they currently challenging the determination of historic significance. Mr. Murphy stated that he is and always has been a passionate supporter of Park City's historical history. He has restored a dozen structures in Park City and he has received two Utah Heritage Foundation project of the year awards. He has a strong desire to incorporate the historic shed into their proposal for the site.

Mr. Murphy stated that over the past year they have had two pre-application conferences, as well as numerous additional conversations and meetings with the Planning Director and the Staff. Throughout the entire process there was strong and consistent support from the Staff and the Planning Director for the proposed plan. Additionally, they met with all the neighbors surrounding the site and the general consensus was supportive of their plan. Mr. Murphy stated that the building is in the HRC zone, which he believed was a crucial distinction. There are no residential setbacks and no residential neighborhood context on the site. He pointed out that they were applying under the LMC Guidelines and would adhere to them both in the letter and the spirit of the law. They were not currently proposing an MPD for the project.

Mr. Murphy stated that the specific purpose of the HRC zone is to facilitate resort-oriented development surrounding the Town Lift and to provide a bed base for the Main Street Core Area. His is the only commercial lot in this area that has not been developed. Mr. Murphy remarked that the focus of this discussion is on moving the structure that currently sits on the site. The only method to achieve this per Code, short of a demolition application, is to find a unique condition to move the shed. Mr. Murphy felt it was unfortunate that unique conditions were not defined by Code or the Guidelines. It was a critical component of this discussion and it is difficult to judge objectively. He has had a number of conversations with Director Eddington about this project and each time Director Eddington stated that he loves the project and it is exactly what should go on the site. That was the reason for this appeal.

Mr. Murphy stated that the Historic Preservation Board has the ability to look at the issue more qualitatively and approach it from a planning perspective. Mr. Murphy remarked that his plan has several unique conditions, and each one alone would qualify under a reasonable interpretation of the Code. The primary unique condition is that the entire context of the area surrounding the Rio Grande has been lost. Every building that had any relationship to the Rio has been moved or destroyed, including the residential buildings across and up the street. All the railways have been removed and there is no context left to relate to the Rio shed.

Mr. Murphy pointed out that this was the same conclusion the Staff concluded in the Staff report. When only one unique condition is required to allow the building to be moved, Mr. Murphy believed that this alone would qualify for moving the building.

Mr. Murphy believed the most significant unique condition was that anything built on the lot would obscure the Rio building. He presented a slide showing that even a one story structure on the developable part of the site would obscure the

Rio building. The visual prominence of the Rio structure should be reserved. He believed the Staff erred in their assessment of this condition in that they mistakenly focused on the idea that he was proposing to move the building to the corner to obtain greater mass and square footage. Mr. Murphy stated that he would explain later why that was completely opposite from his intention.

Mr. Murphy stated that the building was relocated in its recent history at least once. When the lot was purchased in 1978 the seller claimed that the building had been moved on the site. He was asked by Staff to provide evidence that would allow them to make this determination. The report Mr. Murphy provided was attached to the Staff report. He presented a photograph and explained why he thought it was the best piece of evidence. Mr. Murphy presented additional photos, and one in particular was consistent with the stories told by old-time Parkites that the building was moved to widen Park Avenue. Mr. Murphy stated that the foundation was a clear example of unimpeachable evidence that the building was moved. The foundation was inspected by Kurt Simister, the Park City Fire Marshall, and he stated that the foundation was not original. In fact, it was not a foundation at all. Mr. Simister also pointed out discrepancies in the grains and types of wood between the cross beams, as well as the haphazard supports that were actually sawed off telephone poles and wooden blocks that were wedged to provide stability. Mr. Simister has worked for the City for 30 years and his opinion is unquestionable. Mr. Murphy remarked that the Staff report essentially agreed with Mr. Simister.

In his presentation, Mr. Murphy provided three signed affidavits from individuals who have lived in Park City over 40 years. One was from Ron Whaley who has lived across from the site since 1971. He has also had conversations with many others and their stories were consistent.

Mr. Murphy commented on the evidence provided by the City. The picture that overlays the Sanborn map was the primary piece of evidence the Staff used to determine that the building was not moved. He felt it was apparent by the slide that the Sanborn Map and the picture do not line up. Mr. Murphy stated that the Staff report says the discrepancy is due to a five foot margin of error. He wanted to make the point that the old surveyors were not only precise; they were exact. He used example from the ten years he worked for the Mine Company to support the exactness of the surveyors.

Mr. Murphy clarified that they were not challenging the appropriateness of Significant Site designation at this time. Despite the fact that the foundation is not historic, there is no original siding, windows or door, and the building is not in its original location. Only 30% of the original shed remains and 20% of the building. Not moving the structure would result in a project that is detrimental to the public visibility and visual prominence of the Rio structure. This project is the

last lot in the commercial district to be developed and the commercial district carries an expectation of more intensive use in a residential district. If the building cannot be moved, anything built will obscure the historic building coming into town from its traditional vantage point and coming southbound from Park Avenue. Pursuing a plan that insists on the structure remaining in place will be more visually obstructive to the neighbors and will result in greater square footage than what is currently being proposed. Mr. Murphy believed this was the fundamental error in the Staff report.

Mr. Murphy stated that the intent is to build the right project for this site. The proposed plan has been consistently praised and supported by the Staff. Only one unique condition needs to be met in order for this to occur. He believed they had presented several good reasons for the HPB to consider granting the appeal. Mr. Murphy stated that in his opinion, the most important reason is to maintain the visual prominence of the structure in the commercial HRC zone where development is concentrated. By not moving it, they would be working against the actual objectives of the historic zone and the historic Code by obscuring it with an alternative design.

Mr. Murphy clarified that they were not seeking additional density. In fact, they have declined to include some of the allowable density under the LMC in order to present a design that respects this historic structure and maintains its visual prominence as a gateway to Park City's Main Street commercial core area.

Planner Grahn stated that the Sanborn maps are very accurate. The aerial photographs taken with satellites cause the five foot discrepancy.

Board Member Crosby asked what Mr. Murphy had planned for the building in the project, regardless of whether or not it was moved. Mr. Murphy replied that it would be a commercial building, but the actual use had not yet been determined. In his mind he pictured a small café.

Board Member Kenworthy asked about challenges to the historical significance if the appeal was not granted to move the structure. Mr. Murphy stated that he would not challenge the decision. Board Member Kenworthy noted that Mr. Murphy made reference to "at this time" in his presentation. He asked if Mr. Murphy would consider challenging the historical significance at any time. Mr. Murphy preferred to think that he would not; however, he has investors and others he has to answer to. At this time, the answer was no, but he was not prepared to say never. In addition, if he is denied the ability to move the structure, he might consider selling and he could not guarantee that a new owner would not challenge.

Board Member Melville clarified that the drawings presented on page 83 of the Staff report showing the building being moved had not been through the HDDR process and; therefore, there was no determination at this time that it would meet the Historic Design Guidelines. Planner Grahn replied that this was correct. The HDDR was not done because either relocating the building or leaving it in its current location would have a significant impact on the design. Board Member Melville understood that if the building was not moved, the drawings on page 114-115 in the Staff report has not been reviewed for compliance with the Historic Design Guidelines. Planner Grahn explained that the Staff met with the applicant during the pre-application process but no determination was made approving the application.

Board Member Melville assumed that the design guideline that says additions to historic buildings have to be visually subordinate would apply. Planner Grahn answered yes, the Staff would consider that in their review. She pointed out that the Staff would look at all the design guidelines that apply.

Board Member Kenworthy clarified that the Staff denial was that the unique condition was not met. Mr. Root explained that there was not enough hard core facts to approve it in terms of unique conditions. He consulted with Director Eddington and he could not find that enough fact to support the thought that the building was moved at one time. Mr. Root personally liked the proposal of moving the structure upfront, but they could not find enough facts to allow a unique condition.

Board Member Vance noted that Mr. Murphy had three affidavits of testimony, but there was a lack of evidence of it being moved. He wanted to know which had more sway from a legal standpoint. Assistant City Attorney McLean stated that the HPB has the job of evaluating all the evidence, including the affidavits. Board Member Vance asked if there was any precedence of something similar in nature that came before the HPB. Ms. McLean replied that each case is fact specific, and as a Board, they are tasked with evaluating all the evidence. Based on the evidence, the HPB needs to make a factual determination on whether or not the structure was previously moved and whether there are unique conditions. Ms. McLean remarked that the weight of the evidence is for the Board to fact find.

Board Member Melville wanted to know who had the burden of proof on all the evidence. Ms. McLean stated that the burden of proof falls to the appellant. Board Member Kenworthy asked if movement could be a unique condition. Ms. McLean pointed out that there is no definition in the Code for unique condition and it is left to the interpretation of the Board. Board Member Kenworthy stated that if they find that the building has been moved, could the Board move forward and say that it was a unique condition. Ms. McLean answered yes. She

explained that because the Code does not define unique conditions, they should use the plain meaning of unique as a guideline.

Board Member Crosby asked if any research was done regarding other buildings on Park Avenue in the 800 block that were moved/demolished/rebuilt or raised when Park Avenue was widened. Planner Grahn replied that there was no research; however, she thought that would be a very interesting study.

Planner Grahn stated that the Staff tried to find other cases where the HPB heard unique conditions, and the most prominent was 919 Woodside. In that case all the other houses on Woodside had been lost and the new buildings were pushed up close to the street. The house at 919 Woodside had been demolished with the plan to reconstruct and it was set back. When the HPB heard it they decided that with the house being set back so far on the site and having such a large front yard, that was a unique condition that they wanted to retain. In that case, the Board chose to leave it in its original location.

Assistant City Attorney McLean stated that another situation where unique condition was decided was 424 Woodside. Planner Grahn recalled that in that case the structure was re-oriented to be closer to the street because the road had been built up over time that the house sat in a hole. The HPB chose to bring the house up to street level to restore some of its context.

Board Member Holgrem stated that she has worked in several places on Main Street and several of those buildings were moved from Heber Avenue to Main Street. Board Member Vance clarified that there was precedence of historic structures being moved from their original locations without having a detrimental effect.

Board Member Kenworthy asked if the Staff objected to Mr. Murphy's comment regarding the loss of historical context. Planner Grahn stated that Mr. Murphy was correct in saying that the building has lost its historic significance in terms of the context of the site.

Board Member Crosby asked if the Staff felt the historic quality would not be restored if the building was moved. Planner Grahn did not believe it was possible to restore the historic quality of the site. Board Member Crosby wanted to know where the building would be moved during the remediation part of the project. Mr. Murphy stated that his preference would be to move it to the public land across the street; however, he did not believe it was possible because of the pocket park. He remarked that Chad Root and Matt Cassel would decide where to move it while the site is being remediated. Board Member Crosby asked about the potential for the building to become unsafe once it is moved. Mr. Root stated that rather than condemn and demolish, the City tries to work with the

historic structures to keep them in place. Bonds are placed so when a historic structure is moved, a specific amount of money is available to rebuild the structure if were to fall down.

Chair Pro Tem opened the public hearing.

Jeff Love, 532 Woodside Avenue, wanted it known that Board Member Bush failed to fully disclose his relationship with Rory Murphy. Mr. Love stated that three years ago he had an HDDR application that entailed moving a house 6-1/2 feet to the left. The issue eventually came before the HPB and they approved moving the structure based on the encroachment issues and based on unique conditions. After he received HPB approval, five neighbors appealed the decision to the Board of Adjustment and Board Member Bush was one of those neighbors. Mr. Love noted that it ended up going before the Board of Adjustment twice and at the second meeting Board Member Bush called him a liar and a cheat and accused him of assault with the police. Mr. Love took the matter to District Court and the court ruled in his favor to move the house.

Mr. Love reported that in December of 2012 he decided not to build the project and he sold the house. Rory Murphy was the contract buyer to purchase the house. It was a three week closing, cash deal and the sale closed in early January 2013. Two months later, Mr. Love discovered that Mr. Murphy was actually not buyer of the property. The actual buyer was Board Member Bush. In conversations with both gentlemen, they disclosed that Mr. Murphy was on the contract but it was Mr. Bush who financed the deal. Mr. Love stated that ten days after closing, Mr. Murphy deeded the property to Mr. Bush without any exchange of money.

Mr. Love stated that because Mr. Murphy was a straw buyer and that Mr. Bush had intentionally deceived him from transaction, he found it questionable that Board Member Bush was judging this application. Mr. Love believed that Board Member Bush needed to recuse himself from this appeal because remaining would be extremely unethical.

Assistant City Attorney McLean explained that under Utah State Law, recusal is very limited and only requires a person to recuse if they have a current financial interest, if the applicant is a familial relation. Utah Law is broad in terms of disclosure. Board Member Bush disclosed a relationship with Mr. Murphy and it is the Board Member's decision whether or not to recuse. Ms. McLean legally advised that Mr. Bush could remain as long as he could be fair.

Mr. Love clarified that his intent was to disclose the relationship between Mr. Bush and Mr. Murphy so everyone was aware of the situation.

Mr. Love agreed with Director Eddington that the proposal was a great design and it is exactly what should be built on the site. However, the problem is that it did not comply with the design guidelines. In his application he wanted to move the house two feet forward in the front yard setback, but it was denied by Staff because of the perception that moving the house forward would be enhancing the development potential. Mr. Love stated that his issue with Mr. Murphy's application is that moving the structure 30 feet north and 10 feet west, you can spin however, you want, but basically it's to enhance and develop the site.

Mr. Love remarked that his issue was more with the Staff in that all applicants should be treated fairly, consistently and equally. They cannot deny one application and then approve another application just because they like the design or the applicant. Mr. Love did not believe the Staff did a good job of consistently treating people fairly. Mr. Love noted that the City zoning ordinance is more the problem than the actual application. It is too restrictive. It did not work in his case and it was not working for this application, and it will not work in the future. Amending the LMC or the Design Guidelines does not always work.

Mr. Love provided examples of historic structures that were moved from their original location, which included the Miners Hospital, the first Crescent Tram tower on Woodside, the High West Distillery. All of those structures were approved to be moved prior to the LMC amendments of 2009, and it did not take away from the historic. Mr. Love reiterated that under the current guidelines, this application did not comply with the ordinance. Mr. Love thought the City should consider changing the guidelines to make them less restrictive. He provided other examples where the guidelines do not work. Mr. Love suggested that after four years it was time to reassess the guidelines. However, until the guidelines and the LMC are revised, the standards need to be applied consistently.

Mr. Love commented on unique conditions. He stated that if moving a 900 square foot structure 30 feet north and 10 feet west to accommodate a 40,000 square foot addition, which entails 10 condo, 5 commercial buildings and 30 underground parking spaces is unique, he would like someone to give him an example of something that is not unique. If everything is unique, he questioned the purpose of the ordinance.

Mr. Love remarked that there has been a lot of discussion on whether or not the structure was already moved previously. In his opinion, it has not been moved and he reviewed the photograph on page 129 of the Staff report to support his opinion.

Craig Elliott, with Elliott Work Group Architecture, stated that since 2002 his firm has had the opportunity to help with the preservation of approximately 25 historic buildings in Park City. Mr. Elliott believed each one had a unique condition that

was interesting and required thought and dialogue with the City. He also had the opportunity to participate in the revision of the Historic District Guidelines and he finds it interesting how the guidelines are interpreted and perceived. Mr. Elliott pointed out that these are guidelines, but at some point everyone decided to treat them as Code. Mr. Elliott stated that the Historic Preservation Policy written in the Country started with Penn Station and the demolition of a grand structure, and the dialogue that came from that in terms of guiding and helping people to make the right decisions.

Mr. Elliott stated that his first interaction with this particular historic structure was that it was his first bank in Park City when he moved to Park City in 1993. The site has been many different things and today it is a parking lot. Mr. Elliott pointed out that every structure has a different meaning to different people. In this particular case the context of the building no longer exists and it is surrounded by three and four-story buildings. He commented on other projects where buildings were moved on the site to create better projects on the site for the betterment of the community. Mr. Elliott stated that they have the opportunity to review the guidelines as guidelines and apply distinctly different principles for each project. They are bound by the requirements but it is not Code. Mr. Elliott encouraged the HPB to look at the important components and consider it in the context of the situation. They should realize that without moving that building it will always be a parking lot.

Kevin McCarthy stated that he does not live in the Historic District. He has known Rory Murphy for many years but they are just friends with no business relationship. Mr. McCarthy remarked that his family purchased a Condo called Pay Day in 1972 before they were built. He waited 33 years for Mr. Murphy to build the ski lift he was promised when he bought his condo. Mr. McCarthy stated that the project Mr. Murphy built at Silver Star is spectacular. Whether or not things stay in the same spot or whether they are plus or minus five feet is insignificant because Mr. Murphy knows how to build a good project for the town.

Sara Werbelow, a former member and chair of the Historic Preservation Board, stated that when she was on the Board a few applicants came before them requesting relocation of historic structures. The Board had very little mechanism available to consider relocation, regardless of whether or not they felt it was appropriate. Ms. Werbelow noted that the project would go through its own process of review and that was not a discussion this evening. She encouraged the Board to begin the dialogue to define unique conditions so they will have the ability to identify what the unique conditions are from site to site.

Michael Barille stated that he lives in Old Town and works at a land planning design firm called Plan Works Design. He did not have direct experience with preservation projects in Old Town but he has a lot of experience in the planning

realm in terms of good block design and sense of place in how they experience the environments they move through in the Historic District. He passes this property every day and he recognizes its importance. Mr. Barille remarked that all the factual evidence related to whether or not the building was moved in the past was a difficult determination to make. In his opinion, the most compelling issue is about how they would experience the historic structure in the future. He would support bringing the structure to the corner where it could be appreciated and visible and people could talk about it and ask questions.

Meg Ryan stated that she has lived in Park City for 22 years and she is an Old Town resident. Ms. Ryan is a land use planner by trade and she also serves as an appeal authority for Morgan County. She has looked at the Code and tried to determine what information the HPB had available in making their decisions. She pointed out that Mr. Murphy would appreciate a decision this evening, but the HPB could take additional time if needed to consider all the facts before making a decision. This decision will affect the long-term viability and landscape of the community. Ms. Ryan stated that since the HPB is charged with making a decision based on the LMC and the guidelines, she noted that Title 15 Chapter 11, basically says 1) the HPB needs to identify as early as possible and resolve conflicts between the preservation of cultural resources and alternative land uses; and 2) In looking at the criteria for relocation and reorientation, the language is very broad and there is no definition of unique criteria. Ms. Ryan pointed out that the Board only needs to find one of the three criteria, not all three. The language also says that the HPB shall make the determination based on appeal, whether unique conditions warrant the proposed relocation or reorientation on the existing site, or to a different site. Ms. Ryan remarked that without an established definition of unique conditions the interpretation is wide open. As an Appeal Board the HPB could look at the presentation and debate whether or not the evidence is relevant. However, the test they need to find is whether or not there is a unique condition or whether it would abate demolition of the historic structure. Ms. Ryan noted that the Staff report states that the Board can either approve or approve with conditions. The Board could decide what was or was not warranted or they could come up with their own unique criteria. Ms. Ryan remarked that the burden was on the HPB to make a decision based on all the evidence presented. She believed the issue of whether or not the structure was previously moved was irrelevant, because the Board only needed to find whether there was a unique condition that warranted relocating the structure on the site now. Ms. Ryan stated that another standard to consider was the HRC zoning, as well as the General Plan. She pointed out that different zones have different scopes of review. In looking at the map of the HRC zone, primarily most of the significant sites have either been moved or significantly altered or demolished. Ms. Ryan referred to the design review guidelines, which states that significant sites are held to a high standard, but in many cases the sites have been substantially modified in the past and there is greater flexibility

when interpreting the guidelines. Ms. Ryan noted that the General Plan talks specifically about the Lower Park Avenue area and the need to find a balance between the historic character and pedestrian friendly buildings, as well as encourage the renovation and preservation of existing historic structures, and allow adaptive reuse of historic structures near the town lift base by allowed commercial uses. It also talks about building the bed base in this area. Ms. Ryan believed there was evidence in all the documents to support a decision that could go either way. However, one argument that she differed in opinion was that good design is not context for making an approval in this area. Ms. Ryan thought it would be irresponsible to not consider what could happen. There are inherent development rights on the site and that needs to be considered in terms of configuration and other design elements. Moving the structure would provide an anchor to the Historic District and a visual welcome and she thought that should be encouraged. It would be better for the community and the economic viability of Old Town. Mr. Ryan believed that Mr. Murphy's development reputation speaks for itself and that was another important consideration.

Bill Ligety, a property owner on Woodside Avenue, stated that he travels the street every day and he would love to see the best development possible. He has an appreciation of the context having served on the Board of Trustees of the Utah Heritage Foundation and the Park City Historical Society. Mr. Ligety stated that as he looks at this site, the context that was once there is gone. He would like to see the building preserved where people could appreciate it and enjoy it. Mr. Ligety thought it was obvious that the structure needed to be on the corner as opposed to remaining in its current location. Other historic structures have been moved without objection. In his opinion, moving the building as proposed by Mr. Murphy was logical, and he encouraged the HPB to allow it.

Ruth Meintsma, 305 Woodside Avenue, commented on the statement that if the building is not moved it would be obscured by new construction. She noted that the design guidelines would prevent that from occurring because new construction cannot overwhelm a standing historic building. Ms. Meintsma did not believe they had seen the possibility of what would happen if the structure remained in its current location. Ms. Meintsma referred to the Code regarding unique conditions. She pointed out that the Code language was not from 2009. It only came about within the last couple of years due to circumstances that made moving a structure difficult in terms of preserving history. That specific Code language was added for a very specific reason. Ms. Meintsma cited structures on Daly Avenue that sit back on the lot. If those structures were moved to the front of the lot they would be seen more predominantly, but they were not allowed to move forward because it was not within their historic character.

Ms. Meintsma referred to page 56 of the Staff report and disagreed with the Staff analysis that the structure lacks in its original context. She believed that the location of this structure was in context. The rails were gone and Coalition Building is gone, but they still have the Sanborn maps, which she believes is the best illustration of what occurred in that area 100 years ago. Ms. Meintsma stated that the Sanborn maps could not be visually connected to the depot, but it could be in the Museum and in the rehabilitated Rio Grande structure. She remarked that at one time this area was vibrant and important and so much has already been lost, but it can be connected by the Rio Grande building. Ms. Meintsma felt strongly that if the building was moved it would take away whatever was left of the context of the structure. It would no longer be next to the rails and it would not be in its historical appropriate place next to the Coalition Building.

Regarding the issue of visual prominence, Mr. Meintsma thought the structure would still have the capability of being visually prominent on its own in its current location without being moved. Ms. Meintsma referred to the statement in the Staff report that the relocation would allow for the restoration of the historical context. She believed they were talking about the platforms and noted that the platforms were raised to access a train. The platforms would not give the structure any significance in relation to a road.

Ms. Meintsma thought the 4th bullet on page 58 of the Staff report was misleading in stating that less than 30 to 35% of the original structure remains. She stated that the Rio Grande building was not less than, but is 30% of the original buildings. Therefore, 30% of the original building remains. Ms. Meintsma referred to the statement that the Rio Grande must be relocated before construction for environmental contamination. She pointed out that it must also be relocated to accommodate underground parking. In terms of whether or not the foundation is the original foundation, Ms. Meintsma did not believe that was relevant in terms of the importance of the location. The Sanborn maps show that the structure is in or close to the original location. Mr. Meintsma disagreed with both the Staff and the applicant that the location in itself is the historical context because it was connected to everything. She believed the structure needed to be respected as one of the last rail buildings.

Ms. Meintsma referred to the letter on page 73 of the Staff report which states that from both a planning and historic preservation perspective, relocation is the best possible outcome for the building because it will be rehabilitated. She pointed out that the structure would be rehabilitated regardless of whether it moves or remains in its current location. The letter also states that moving the building forward allows it to be more appreciated by the public. Ms. Meintsma disagreed. The building is more appreciated when it is in its original location where it was surrounded by the Coalition Building. Ms. Meintsma agreed with the assessment that the original design character has been diminished; but it has

not be extinguished. Ms. Meintsma read that the proposed a project that provides an excellent opportunity to reconstruct the small representative to the transportation and history. She pointed out that an applicant can reconstruct a structure that already exist, but if the structure still stands in its original form, even if it does not give a feeling of the purpose, it is still relevant. Ms. Meintsma noted that page 75 of the Staff report states that the proposed project will reflect the applicant's true appreciation of the importance of the history. In order to accomplish this, the applicant needs to move the Rio Grande building. She stated that the applicant wants to move the building because it works best for him. Ms. Meintsma commented on the statement that the HPB should not approve the proposed relocation because it would eliminate the possibility of demolition. She pointed out that demolition is not allowed unless the City makes the determination that the structure needs to be demolished for safety reasons. At that point the structure would have to be reconstructed as it stands. Ms. Meintsma disagreed with the statement that without the relocation the historic preservation would be hindered. Even if the building remains in its current location, the goals of historic preservation are augmented. Ms. Meintsma stated that if the building was temporarily moved to accommodate some type of work, the fact that the building now sits in its original proposed location according to the Sanborn map is a testament to the importance and respect given to the original location. If the original location was not relevant, the building would have remained in its new location.

Ms. Meintsma referred to page 103 and the paragraph regarding unique conditions. She attended the meeting when unique conditions were added. She provided public input and at the time she asked for an example of a unique condition. The answer was that a unique condition is a condition that requires that the building be moved; ie. there is no other option to save that building. Ms. Meintsma stated that unique condition is not a condition that would allow the building to be moved. Ms. Meintsma disagreed with the six reasons the applicant cited in his letter as unique conditions, beginning on page 77 of the Staff report. Ms. Meintsma felt strongly that moving the building would do nothing to save the history and relevance of the structure.

Assistant City Attorney McLean asked if Ms. Meintsma was reading from the minutes of a previous meeting regarding her public comment and what constituted a unique condition. Ms. Meintsma answered yes.

Sandra Morrison with the Park City Historical Society and Museum, offered to provide the Planning Department with a copy of a Park City article from 1946 about a couple who regretted hearing about the tearing down of their old stomping grounds, the Rio Grande Depot. Ms. Morrison had additional photographs that she thought might help resolve the issue of whether or not the structure was previously moved. Ms. Morrison stated that Park City was a

railroad town because it was a mining town and there were actually two railroads servicing the City; the Denver and Rio Grande and Union Pacific. They were huge competitors and both were in Park City because of the opportunities it afforded. Ms. Morrison remarked that because of the railroad concentration at the bottom of Main Street, the Kimball Hotel was across the street from the Rio Grande Building. The Hotel was preserved by David Belz a number of years ago. She named several other historic buildings in Park City that surrounded the Rio Grande Building. Ms. Morrison emphasized that the HPB was basing their decision on the LMC. She noted that the Historic Preservation Board spent three years, from 2006-2009, updating the Land Management Code and it was adopted by the City Council after several public hearings.

Chair Pro Tem White closed the public hearing.

Mr. Murphy stated that the reference to the 40,000 square foot addition was inaccurate. He commented on the historic context and the subordination of the new construction to the old construction. Mr. Murphy stated that the criteria was that it be viewed from the primary right-of-way, which in this point would be Park Avenue. He believed what he was proposing was not out of the realm. He was not saying it is what he would do or that it would be approved, but according to the LMC it is what he could build. Mr. Murphy stated that in talking about 30% of the shed, they were only talking about 20% of the entire structure.

Board Member Melville stated that in terms of whether or not the building has been relocated, she believed the evidence presented in Exhibit B, the Sanborn Maps overlaid with the GSI, shows it is in the same place. However, the evidence presented by the appellant, including three letters stating that the structure was moved, counter that evidence. Board Melville pointed out that the letters were anecdotal and those who remember that it was moved have not said when or where it was moved. In her opinion, based on the evidence of the Sanborn Maps and the photographs, she did not believe the structure had been moved.

Board Member Kenworthy stated that he was leaning the other way. After he visited the site and looked at the foundation he did not believe it was what would have been constructed to be alongside of a railway. He believed the building had been moved but he had no idea where it was moved to or how far it was moved. However, it was obvious from the foundation that it had been changed around. Board Member Kenworthy was comfortable with the reputation and expertise of the people who remembered that it had been moved.

Board Member Crosby understood that the HPB was only here this evening to establish whether unique conditions exist to relocate the Rio Grande Building; and they were not supposed to talk about the project itself. Assistant City

Attorney McLean replied that this was correct. She recalled that there was a reference in the appeal related to Criteria #1 about whether relocation would abate demolition. Ms. McLean noted that the issue had not been discussed and there was no condemnation or other reasons why it would be moved. She clarified that the crux of the discussion is to decide whether unique conditions warrant the proposed relocation. Ms. McLean stated that speculation of what could happen should not be part of the deliberation or evaluation of the evidence.

Board Member Holmgren stated that she has lived in Park City for 23 years. When she came the first time the town was on the ghost town register. Board Member Holmgren remarked that the complexion of the town has changed dramatically and most people know that. Old Town Main Street is no longer boarded windows and dogs running loose. She looks at the Rio Grande building as being historic. She also looks at moving it forward on Park Avenue, which is the Gateway to Main Street, as a unique opportunity to enhance their history and make it better.

Board Member Vance stated that determining whether or not unique conditions exist is completely ambiguous from what he understood from all the testimony given. In terms of whether or not it has been moved, the testimony weighs on both sides and it could go either way. Board Member Vance thought looking forward could be considered historic preservation in preserving historic structures. In his opinion, the context was the most unique condition in that it does not exist. He stated that the developer has development rights and no matter what they build, it would obscure the Rio Grande structure and it would no longer be the first thing people see. Board Member Vance believed that alone was a unique condition. He was pleased that they have enough respect for what Park City has been and what they came from to even consider it, but the question is how to apply that in the determination of unique. Board Member Vance suggested that the structure may have been moved while they were tearing out the tracks and then it was moved back. In his opinion, the absence of the original context is a unique condition that would warrant moving the building to a place on the site that would represent the intent of the building in the first place. He believed that was more important than location. Board Member Vance thought they should put a restriction on the unique condition to make the building significant and to retain its significance. That would be enough to grant a unique condition variance.

Board Member Kenworthy agreed with adding conditions, and one would be that it would not challenge the historic significance. He believed the goal of the HPB was historic preservation. Board Member Kenworthy stated that he would support approving the appeal with a condition that the developer would not challenge the significant status. He also thought they should add a condition requiring that the building be placed in a visually prominent position, and that it

connects to the homes that have been moved and redeveloped on the other side of the street, as well as other historic structures on the street. Board Member Kenworthy thought moving the structure to the corner was an ideal location. He could see unique conditions being met because of the visual connections that it would have.

Board Member Crosby commended and thanked the Staff and everyone who gave public input. She also thanked the appellant for doing a thorough due diligence on the Rio Grande building, and for his commitment to historic preservation. Board Member Crosby stated that in her mind this situation speaks to historic preservation. The building is a remnant of a large, significant site that represents the heartbeat of Park City's mining era. If it is relocated to the corner of 9th and Park Avenue, it would have a visibility and prominence to anyone driving, walking or biking into the HRC zone. She agreed with Ruth Meintsma regarding educating the public within the building with maps, photos, etc. Unless you go to the museum or see pictures around town, anyone new to town has no idea what was on the site. If the structure is left in its current location it may be visually impaired and overwhelmed by new construction. If the appellant is willing to restore the historic context of the building to showcase its original use as a passenger or loading station, and if there is a visual separation between the historic building and the newly constructed buildings, it would be another way for the building to stand out.

Board Member Crosby pointed out that the Rio Grande building does not have its original siding or roof and it sits on timbers rather than a cement foundation. She noted that the building would have to be moved during construction to perform the remedial cleanup. She respected the affidavits from local long-time residents who remember that the building was previously moved. She understood that at least four or five structures on the same block have either been demolished or destroyed and rebuilt in a new location. Board Member Crosby was in favor of upholding the appellants appeal and supported the fact that unique conditions exist to warrant relocation, reorientation and rehabilitation of the Rio Grande building.

Board Member Vance referred to the Sanborn map and stated that the unique condition no longer exists in terms of how the railroad came in. He noted that the building sits in the middle of the block because the railroad filled up the first half of the block. The building no longer fulfills its original axial relationship with the Rio Grande sign and the gable. With the absence of the railroad line and the possibility of development, Board Member Vance thought a more appropriate location would retain the intent and retain the axial terminus to a primary corridor. If development occurs, it would be better to have the structure retain its historical approach and relationship. Board Member Vance believed that relationship in terms of a unique condition could be justified and preserved.

Chair Pro Tem White commended the Board Members for their assessments and he echoed their comments. He agreed with Board Member Vance that the HPB could find a unique condition to justify relocating the building to a prominent position.

Board Member Melville pointed out that the project presented in the Staff report may not be the end product, regardless of whether or not the Rio Grande building is moved. Chair Pro Tem White agreed that the project would have to go through the design review process. Board Member Melville thought it was premature for the Board to be evaluating relocation without knowing the final project. She believed the Board would be better able to evaluate relocation once they see the design and how the new construction affects visibility and context of the historic building.

Assistant City Attorney McLean stated that the application is to move the structure to a particular location. The Board could consider that location and add a condition of approval requiring that the structure would be relocated to that particular spot or on the corner or somewhere specific.

Board Member Kenworthy favored adding a condition that would give the developer some options for orientation, but require the front portion of the building to be on the frontage of Park Avenue. He personally thought the corner may be the best location choice, but he was interested in seeing what the developer would propose.

Chair Pro Tem White pointed out that the HPB had the option to: 1) request additional information and continue to another meeting; 2) deny the appeal; 3) grant the appeal; 4) deny in part or grant in part with conditions.

Planner Grahn stated that Condition of Approval could be expanded to add that the structure must be relocated to a visually prominent location on 9th Street and Park Avenue, with frontage on Park Avenue. Board Member Kenworthy supported the language as read.

Mr. Murphy remarked that he would voluntarily add a condition stating that he would not submit any kind of application challenging the significance of the structure. Board Member Kenworthy thought that was an important condition to add.

Assistant City Attorney McLean summarized that if the Board were to grant the appeal it would be based on: 1) lack of historical context on the site; 2) because the proposed location is compatible with its historical prominence. She was unclear if there was consensus on whether it was moved in the past.

The Board members did not feel that prior movement was a relevant factor. Assistant City Attorney McLean stated that if the two reasons she summarized were accurate, those should be outlined in the motion.

MOTION: Board Member Vance moved to grant the appeal with conditions according to the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in Exhibit H, with the following amendments: Condition of Approval #2 stating that the structure must be relocated to a visually prominent location on 9th Street and Park Avenue with Frontage on Park Avenue.

Assistant City Attorney McLean suggested that Conclusion of Law #3 be revised to read, "The Historic Preservation Board finds unique conditions due to the lack of historical context on the site, and that the proposed location is compatible with its historical prominence.

Board Member Vance amended his motion to include the revision to Conclusion of Law #3 as stated by Assistant City Attorney McLean. Board Member Holmgren seconded the motion.

Board Member Melville requested that the Board revise Finding of Fact #19, Exhibit H to remove the second sentence. As written, the sentence reads, "Without relocation, new development on the site will visually obscure and consume the historic structure." Since that would not be allowed by the design guidelines they should not make that finding.

Planner Grahn asked if the Board wanted to add a condition of approving stating that the developing would not submit a DOS for removing the structure from the Historic Sites Inventory. Ms. McLean suggested that it be addressed in a finding of fact. Mr. Murphy thought Finding of Fact #2 could be revised to say that the applicant agrees not to dispute the historical significance.

Due to the number of changes Assistant City Attorney McLean re-stated the motion. The motion is to grant the appeal based on the Findings of Fact, Conclusions of Law and Conditions of Approval as outlined in Exhibit H with the following amendments: 1) Finding of Fact #19, the removal of the second sentence; 2) the addition of language to Condition of Approval #2 for the structure to be relocated to a visually prominent location at 9th Street and Park Avenue, with frontage on Park Avenue; 3) Finding of Fact #2, adding language stating that the applicant stipulates that he will not contest the historic significance of the site; 4) Amend Conclusion of Law #3 to read, The Historic Preservation Board finds that unique conditions exist due to lack of historical context on the site and the proposed location is compatible with its historic context.

MOTION: Board Member Vance made a motion to grant the appeal for the reasons stated by Assistant City Attorney McLean. Board Member Holmgren seconded the motion.

VOTE: The motion passed 6-1. Board Member Holmgren voted against the motion.

Findings of Fact – 820 Park Avenue

1. The property is located at 820 Park Avenue in the Historic Recreation Commercial (HRC) District. The site contains .33 acres. Currently, the Rio Grande Building is located on the southern half of the property, surrounded by paved parking.
2. The site is listed on the Park City Historic Sites Inventory as “Significant.” The applicant stipulates he will not contest the historic significance of the site.
3. The applicant submitted a Historic District Design Review (HDDR) application on June 19, 2013 for the proposed development of the 820 Park Avenue site, which included relocating the Rio Grande Building and building additional commercial/retail and residential units on the site.
4. On August 6, 2013, the Planning Department approved the first phase of the project, which included demolishing non-historic elements on the exterior of the existing structure in order to gain better access to the foundation of the historic building.
5. On July 17, 2013, the first public notice was posted on the property and letters were mailed to adjacent property owners for the initial fourteen (14) day staff review.
6. A second notice was sent out and posted on August 6, 2013.
7. The historic structure that remains today was once part of a much longer baggage depot and freight shed located along Park Avenue and part of the Silver King Mining Company Site.
8. The setting of the site today is substantially different than that depicted in Sanborn Fire Insurance maps dating from 1900 and 1907.
9. The structure currently stands alone in a large paved parking area surrounded by residential development and lacking its historic context.

10. The Rio Grande Western Railroad (later the Denver & Rio Grande Western) acquired the Utah Central Railway line through Park City in 1897. In July 1899, a Queen Anne-style depot was constructed and the existing portion of the baggage claim portion of this station was built in 1890.

11. In 1946, the Denver and Rio Grande Western abandoned the 24-mile stretch of its Park City Branch. Following this, the depot was demolished and only the northern portion of the freight shed remained.

12. The historic depot appeared to have a platform surrounding the structure on the south and west elevations in photographs from 1911. This platform was buried beneath the soil following the demolition of the passenger depot, likely to accommodate the heightening of Park Avenue's road surface.

13. Historic photographs depict the freight/baggage shed as approximately two (2) bays wide; it appears that only the north half of the structure and one (1) bay exists today at the 820 Park Avenue site.

14. In overlaying the Sanborn Fire Insurance Map of 1907 atop a current GIS aerial view of the property, it appears that the structure was not previously moved in the past to its current location.

15. A report by Emily P. Beeson, Park City Museum archivist, found that there was no historical evidence that the building had been moved or relocated. Her report referenced the 1900, 1907, 1929, and 1941 Sanborn Maps; the 1995 Reconnaissance Level Survey conducted by History Projects; articles from the Park Record dating from 1881 to 1970; the Park Record index from 1979 through 1985; the 2008 Historic Site Form compiled by Dina Blaes; the 2006 and 2010 Park City Property Inventories; as well as various photographs of the Rio Grande building and surrounding area from 1912 to 1997, and 2012.

16. Per LMC 15-11-13, the criteria for relocation and/or reorientation of the Historic Building(s) and/or Structure(s) on a Significant Site include: (1) the proposed relocation and/or reorientation will abate demolition of the Historic Building(s) and/or Structure(s) on the Site; or (2) The Planning Director and Chief Building Official determine that unique conditions warrant the proposed relocation and/or reorientation on the existing Site; or the Planning Director and the Chief Building Official determine that unique conditions warrant the proposed relocation and/or reorientation to a different Site.

17. The Planning Director and Chief Building Official determined that no unique conditions existed to warrant the proposed relocation in a letter dated October 9, 2013.

18. The Historic Preservation Board finds that unique conditions exist that warrant the relocation of the structure. The historic context of the site as well as the southern two-thirds (2/3) of the original structure have been lost.

19. The relocation of the Rio Grande building to the corner of 9th Street and Park Avenue will allow it to be the visual focal point of the project. By allowing the relocation, the project will harmonize with adjoining commercial projects as well as permit the Rio Grande Building to enhance the neighborhood as a gateway to the commercial district.

20. Relocation will allow for the restoration of some of the historic context that originally existed. By relocating the structure next to a modern transportation element (the street) on a raised platform, the design is consistent to the building's original context.

21. The goals of historic preservation are best served by relocating the structure to the corner of 9th Street and Park Avenue. This will prevent the structure from being visually impaired and consumed by the new construction. By relocating the structure, the building will function as an important gateway into the downtown historic district. Moreover, the relocation will emphasize the historically significant structure by allowing it greater visibility to be appreciated by the public.

Conclusions of Law – 820 Park Avenue

1. The appeal was received within 10 calendar days after Staff's final decision.
2. The relocation will not abate demolition of the "Significant" structure at 820 Park Avenue.
3. The Historic Preservation Board finds that unique conditions exist that warrant the relocation of the structure.

Order:

1. The appeal is granted in whole and the Staff's determination is reversed.

Conditions of Approval – 820 Park Avenue

1. Staff will review the Historic District Design Review (HDDR) application for compliance with the Land Management Code and Design Guidelines.
2. The structure must be relocated to a visually prominent location at 9th Street and Park Avenue, with frontage on Park Avenue.

Park City Historic Preservation Board
November 13, 2013

The meeting adjourned at 8:11 p.m.

Approved by _____
David White, Chair
Historic Preservation Board