

PARK CITY MUNICIPAL CORPORATION
HISTORIC PRESERVATION BOARD
MINUTES OF MARCH 20, 2013

BOARD MEMBERS IN ATTENDANCE: Dave McFawn – Chair; Marion Crosby, Puggy Holmgren, John Kenworthy, David White

EX OFFICIO: Thomas Eddington, Katie Cattan, Anya Grahn, Polly Samuels McLean, Kirsten Whetstone

ROLL CALL

Chair McFawn called the meeting to order at 5:06 p.m. and noted that all Board Members were present.

PUBLIC COMMUNICATIONS

Ruth Meintzma a community member residing at 305 Woodside Avenue made a general comment on notification signs and posting in old town. The steep grade of streets such as Woodside Avenue make it hard to post where the details of the sign are easy to read. Ms. Meintzma suggested something to draw more attention to the signs themselves; such as the neon flags used in construction, or a solar light that would illuminate the sign at night so people could see them at night. She cautioned that she often times sees signs up for weeks after the deadline dates. Chair McFawn requested that this item be brought back to the Board for discussion at a future date.

There was no additional public communications.

STAFF/BOARD MEMBERS COMMUNICATIONS AND DISCLOSURES

Planning Director Eddington reminded the Board of the upcoming CAMP training that was scheduled for June 14.

Board member White disclosed that he would need to recuse himself from the appeal item for 505 Woodside Avenue as he is the architect on record for the project.

Planning Director Eddington announced that Chair McFawn has submitted his resignation from the Historic Preservation Board and that April 3 would be his last meeting with the Historic Preservation Board.

Board member Kenworthy disclosed that he lives at 214/220 Woodside Avenue.

REGULAR MEETING – Discussion, Public Hearing and Possible Action

505 Woodside Avenue – Appeal of Historic District Design Review
(Application #PL-13-01842)

Chair McFawn reminded the Board that the appeal before them will be heard Di Novo or as if they were looking at the Design Review for the first time.

Chair McFawn reviewed the process for hearing the appeal; Staff will introduce the item, the Board can ask questions of Staff members, the Appellant can make a presentation or comments, the Board may then ask questions, the Applicant may present or comment, the Board may ask additional questions, then the Board will open up for Public Comment, Board discussion, and Action.

Planner Whetstone introduced the item as an appeal of a Design Review that was approved for 505 Woodside Avenue. This Design Review is a new application. There was a previous Design Review submitted in 2009 that was withdrawn. This application was submitted in September, 2012 and falls under the purview of the current Land Management Code and Design Guidelines. The application is for an addition to the rear of an existing historic structure on a Significant site. In the front of the property the applicant is requesting to change the retaining wall to mimic the low, historic retaining wall instead of the current modern retaining wall present.

Staff approved the proposed Design Review on February 4, 2013. On February 13, 2013 Staff received an appeal. The appeal received was a one page appeal that protested that no Steep Slope Conditional Use Permit was required on this lot. Since this was a matter of the interpretation of the Land Management Code this portion was scheduled to be heard before the Planning Commission on March 27, 2013. The appellant then supplemented their appeal on February 27, fourteen days after the original submittal, with the items that are before the Historic Preservation Board tonight.

Planner Whetstone covered a presentation that gave an overview and analysis of the appeal points. She showed the existing modern retaining wall that was not historic retaining wall. She clarified that the existing tree was actually within the city Right-of-Way and is subject to the City Arborist as to whether the tree can be removed. The applicant is request to remove the non-historic existing additions and then add a new rear addition. She showed the proposed site plan that showed the flat roof transition to the main addition with the parallel roof pitch to the historic structure.

Staff addressed each point of the appeal:

The HDDR Application was Incomplete. Staff reviewed the survey that was submitted and prepared and certified by a licensed surveyor and provided that analysis in the staff report.

Steep Slope CUP Planning Commission Review was not performed. The interpretation of the Land Management Code is under the purview of the Planning Commission and will be brought before them on Wednesday, March 27.

Engineered Retaining Walls > 6ft are required in Front Yard. The appellant believes that the retaining walls will be required to be 6' but Staff has not yet received an Engineering that states that. The applicant is moving forward with the intention of a 4' rock stacked walls even if it requires two tiers of walls to attain the height needed. Chair McFawn clarified that this issue would be outside the scope of review for the Historic Preservation Board. Planner Whetstone agreed that the Planning Commission will discuss the retaining walls on the 27th but the Guidelines does discuss the design aspect of low historic retaining walls. The retaining walls will additionally be addressed at the building

permit stage. If an Engineer requires a 6' retaining wall the applicant would be required to apply for an Administrative Conditional Use Permit prior to constructing the wall. Board member Crosby asked if this was regarding the area with the tree in right-of-way. Planner Whetstone stated it was that area and that the retaining wall was on the street side of that tree.

Significant Vegetation must be shown on plan and preserved. There was a tree in the rear of the lot that had not originally been shown on the site plan. The tree was added to the site plan prior to Final Action. All vegetation has been outlined on the plans with notes regarding the preservation. The Order presented in the staff report would require that Staff add to Condition of Approval #6 that reads "requiring an updated survey to identify all existing significant vegetation by type and size for inclusion on the final landscape plan required to be submitted with the building permit application and to specify that none of the large evergreen trees on the property or in the City ROW will be removed unless required to be removed by the City Arborist and that all existing significant vegetation, including that on adjacent lots shall be protected from disturbance during construction and the method of protection shall be approved by a certified Arborist."

Historically Significant Site/Building requires Historic Preservation Plan. The applicant did submit a Preservation Plan and it identified the significant vegetation. The applicant also submitted a panelization plan that was specifically not approved with this design. By Code a panelization requires an exploratory demolition to find out more information before they can get an approval for disassembly and reassembly as that method of preservation is not ideal in Park City. An approval for this method would require a Determination of unique circumstances by the Planning Director and Chief Building Official. This Determination may be appealed at time of Action.

Approval allows for illegal demolition of entire structure except for 3 walls. Staff determined that the addition to the front of the building was made within the historic period of the structure and that the addition is historically significant to the Site. There were additions that took place in the rear in the 1940s. The Guidelines allow that those non-significant additions may be removed. The applicant was also approved to remove and reconfigure existing decks and patios.

Historic Buildings (sic) Structure and roof forms are not being preserved or retained. The applicant is proposing to retain the historic roof form of a cross wing variant roof form. Where the addition that is being removed is where the new addition is proposed with a flat roof transitional area in between.

Universal Guidelines #1 and #2 were mentioned in the appeal; using in the site as a historical use and retaining the historic features that hold historical significance and make sure that they are maintained. Staff clarified that the site is proposed as a single family dwelling which is a historical use. Planner Whetstone further clarified that the historical portion of the site, the front addition and original historic structure, would be kept in its original form.

Staff found compliance with Guideline D.1.4 which states that there must be a “clear transitional element between old and new”. This transitional piece would be the flat roof portion separating the historic structure from the new addition.

The new addition is located approximately 31 feet behind the front façade and complies with Guideline D.1.2 in that it is visually subordinate to the historic structure when viewed from the public right-of-way. Staff stated that the proposed addition would be visible from a 6’ tall person standing in the right-of-way but that the addition would not be obtrusive or overwhelming to the historic structure.

Staff reviewed the application for compliance with all applicable guidelines, including but not limited to; site plan, primary structure, parking and driveways, additions, exterior lighting. These items were found in compliance or addressed in the approval with Conditions of Approval as outlined in the staff report.

Planner Whetstone reiterated the actions available to the Historic Preservation Board in regards to the appeal; deny the appeal and affirm staff’s determination of compliance either wholly or partly, grant the appeal and reverse the determination of compliance either wholly or partly, or the Board may continue this discussion if there are items the Board wishes to be addressed.

Chair McFawn asked, regarding appeal point #5, if the CAD process was for the additions that were done in 1940s or the historic mining period. Planner Whetstone clarified that a CAD was a certificate of appropriateness of demolition for historic structures. In order to qualify for demolition through this process a structure must be historic. Planning Director Eddington noted that additions made outside of the historic period would not require a CAD because those portions of the buildings are not historic.

Chair McFawn opened the floor to the appellant.

The appellant, Lawrence Meadows, and owner of the adjacent property located at 515 Woodside Avenue raised a procedural question to the legal counsel. Mr. Meadows felt that the appeal policy was illegal as he has been noticed to be put through two appeals. Successive appeals violate the Utah Municipal Land Use Development Act. The City should be aware of this because of Love vs PCMC in July ruled that Mr. Love was, in fact, subjective to an illegal procedure. Mr. Meadows felt that he was being subjected to the exact same illegal procedure. He requested that the Ombudsman submit an advisory opinion which he was submit as Exhibit A to the Board. He asked that the Ombudsman provide not only an opinion on the complaint but also to provide an opinion on the process as the Land Management Code does not provide any bifurcation process for an appeal. Mr. Meadows felt the act of having to go to two separate boards and describe the same issues was arbitrary and capricious. The Historic District Design Review, by its nature, has to incorporate the Land Management Code. In the opinion of Mr. Meadows 505 Woodside should have been processed as a steep slope lot. Mr. Meadows suggested that the appeal hearing be postponed indefinitely until such time as the Ombudsman renders their opinion to avoid problems. City Attorney Samuel-Mclean indicated to Mr. Meadows in an email, where he asked the same question, the advice is that the hearing can proceed as they are not success appeals, it is that they are separate issues. The Historic Preservation Board does not have the jurisdiction to

determine whether a Steep Slope Conditional Use Permit would be required. That is a matter that is under the jurisdiction of the Planning Commission under 15-1-18(A) "Any decision by either the Planning Director or Planning Staff regarding Application of this LMC to a Property may be appealed to the Planning Commission. Appeals of decisions regarding the Design Guidelines for Historic Districts and Historic Sites shall be reviewed by the Historic Preservation Board as described in 15-11-12(E)." Mr. Meadows would not be arguing the same matters in front of both boards. The Historic District Design Review argument would be made before the Historic Preservation Board and the Planning Commission would address the Steep Slope and any other Land Management Code issues.

City Attorney Samuel-Mclean gave the example of a Conditional Use Permit and a Plat Amendment those appeals would go to different bodies as they are different applications because different bodies have jurisdiction over different matters. Mr. Meadows argued that in that example there were two applications but he is only appealing one application and that he was seeking clarification.

Chair McFawn stated that the appellant has requested the clarification from the Ombudsman but the Historic Preservation Board with regards to Historic District Guidelines. The Board does not review or make judgment on items that are under the purview of the Planning Commission and the Board will not be covering or discussing any of those items today. Chair McFawn recommended hearing the item today, the appeal items pertaining to the Historic District Design Guidelines.

Mr. Meadows disagreed with that direction but proceeded with his presentation. The largest issue he had is that of procedure is the standard of review and that not every applicant is treated fairly due to the fact that the Guidelines is written in such a way that it is subjected to individual interpretation. He was upset that a Historic Preservation Board member was found to be working for the applicant.

Mr. Meadows built three houses that abut the subject property, each of those properties were required to go through a Steep Slope process, but 505 Woodside did not.

Two years ago Mr. Meadows appealed a Design Review on the same property where the applicant submitted misrepresenting information. Planner Whetstone clarified that this was a previous application and is not part of the current proposed plans. Chair McFawn urged Mr. Meadows to keep his comments focused on the current application as that is all that the Board could hear.

Mr. Meadows raised an issue with notice as he stated that the applicant hid the notice signs behind a garbage can and he claimed three months later in the snow the sign was still hidden behind a garbage can. Planner Whetstone stated that the second photo shown was of the first notice period sign was not picked up and was approximately 30 days old. Mr. Meadows agreed with the public comment provided by Ms. Meintzma at the beginning of the meeting and stated that signs needs to be more visible.

The appellant felt the Design Review application as incomplete because the survey has inadequate topographic contour lines, inadequate spot elevations for existing structure and existing retaining wall, and has misstated elevations on the survey. The preservation

plan is not viable and Mr. Meadows wondered how a Design Review could be approved without such a plan in place. A lack of that information on the survey should deem the application incomplete.

Mr. Meadows stressed his concern to preserve the mature pine tree in the front city right-of-way. He estimated that the roots of the tree came up to approximately 5'9" above the road which meant that the applicant would not be able to build a retaining wall under 6' in that area without having to remove or displace the tree. The retaining walls are significant because the applicant wants to take them down and make them smaller – pine tree in the right-of-way is one foot above the wall.

The appellant felt that a lot of the issues regarding protection of the vegetation had been addressed but the one tree left off in the Northwest of the lot is protected by a view shed easement. Mr. Meadows thought it was intentional that the applicant left the tree off the plans. He wished to know what type of loss mitigation would be put into place, especially with the trees in the right-of-way.

Mr. Meadows showed a copy of the applicant's survey zoomed in along with the site plan. He pointed out that the survey did not depict the wall height of the existing wall on the survey. The Architect drew the wall dimension on the site plan and that the information was misstated as 4' when in reality the retaining wall height is approximately 5'9".

The appellant referred to page 16 of the packet, serial appraisal top, the square footage 1265 square feet and the date is 1949. The following page is the footprint of the house that would have been sketched out by the tax assessor shows a 135 foot root cellar as well. The staff report only reflects that the historic structure is only 990 square feet. He contested that the whole building as shown on the 1949 tax records was historic, which shows approximately 1400 square foot footprint, as was stated in the Historic Sites Form. Deviation from the Historic Sites form would violate the inventory and preservation process.

On Page 108 of the packet, Mr. Meadows showed the rear elevation as it is today. He then compared the 1949 tax records and showed that the rear elevations are the same. He did not understand why Staff would allow the demolition of historic material. He pointed out the sliding standard of review as a neighboring property at 543 Woodside Avenue was forced to keep an accessory building at the rear of the lot while the current applicant has been approved to remove a root cellar that is shown on the tax information from 1949.

Mr. Meadows referred to page 106 that states that disassembly and reassembly guidelines will only be considered as a last resort of preservation. He felt that this building was habitable and should not qualify for disassembly.

Mr. Meadows stated the Code requires a CAD for all historic structures and the rear additions are listed on the 1949 tax records and are therefore historic. He did not feel that Staff was applying the Code as written.

The appellant questioned the flat roof form that was proposed to be used a transitional element. The Land Management Code allows for flat roof pitches if it meets the definition of a green roof but the Historic District Guidelines do not allow for flat rooftops. He argued that the more restrictive of the two Codes should apply in this case.

Mr. Meadows was disappointed that Staff did not require a rendering or model of the proposed project during the approval process.

Chair McFawn asked that the appellant wrap up his presentation as he had addressed his six appeal items. Mr. Meadows felt he was being cut off and being forced to take the matter to third district court. He did not agree with taking some of this items of appeal to Planning Commission and having the appeal bifurcated.

Discussion ensued over the appellant's letter dated on March 18 as to which appeal items were under the purview of the Historic Preservation Board and could be ruled on by that Board. It was agreed that the Planning Commission should be the ruling body for the Steep Slope issue. The design aspects of retaining walls can be discussed by the Historic Preservation Board but if the walls are required to be over 6' should be Engineered and approved through an Administrative Conditional Use Process.

Mr. Meadows argued that the Code requires that the health of the existing vegetation be established by a certified arborist and that a loss mitigation protocol be agreed upon prior to construction. Planner Whetstone clarified that a landscaping bond would be required at the time of the building permit. There would additionally be a historic guarantee bond on the historic structure at that time. The construction mitigation plan done through the building permit would address any significant vegetation at that stage. Mr. Meadows concern about the trees was an issue at this stage and he wanted to be assured that the Planning Staff will review and address it. He was not comfortable as an adjacent property owner to wait to see what would happen through the permitting process. Board member Holmgren stated that the site plan included for review to the Historic Preservation Board did identify the vegetation to be saved.

City Attorney Samuel-Mclean expanded on the subject of the ability to panelize the historic structure. The process would be for the Chief Building Official and Planning Director should review the questionable historic materials and make a Determination in terms of whether or not the house or materials should be preserved and how those materials should be preserved. That Determination can be appealed upon such time as when that Action takes place. Planning Director Eddington further clarified that a panelization of the historic structure has not been approved with the current Design Review before them.

Chair McFawn stated that the submittal by the applicant included panelization but the appellant is arguing that the Guidelines do not consider that a common or preferred form of historic preservation. Staff has not approved or denied a panelization at this time and that it would require further exploration and action. Mr. Meadows argued that the application cannot be considered complete without a Preservation Plan and the plan that was submitted included a request to panelize the historic structure. Chair McFawn clarified with Staff that the application contained a preservation plan, that the preservation plan indicated a panelization, and that the HPB is not addressing the

panelization at this time. He further asked Planner Whetstone why the panelization was not before the Board at this time. She responded that Staff did not have the information necessary in order for the Chief Building Official and Planning Director to make a Determination. That information would be required prior to the issuance of a building permit. Board member Crosby identified that the appellant would then have the ability to appeal that Determination at that time. Mr. Meadows felt that would be a successive appeal.

The appellant added additional argument in regards to the flat roof transition element in the fact that it would produce a structure that is not compatible with the current streetscape. The house meets the height limit of the zone but it seems significantly higher than the surrounding structures. Planner Whetstone explained that might be caused by the change in grade that happens along the street.

Jerry Fiat, representing the company that owns the property located at 505 Woodside Avenue, address the Board. He gave background on the process. In 2009 Mr. Fiat hired Architect David White to work on the project for 505 Woodside. Originally he wished to add a side yard garage. The application for a Design Review was approved and appealed by Mr. Meadows. The applicant then withdrew the application. During that time the appellant received an Ombudsman opinion that stated that with erroneous information submitted that is deemed that Design Review incomplete and therefore that application would not be vested under the previous Land Management Code or Guidelines.

The applicant welcomed any constructive criticism or changes the Historic Preservation Board wanted to see in the approval but that the he would oppose upholding the appeal and not allowing the addition to be built.

Chair McFawn opened the floor to the public and asked that they state their name and address for the Board. The public hearing was closed not having any comment regarding the information.

The appellant added that he was not anti-development and that he wanted to see the applicant be able to build an addition that was sensitive to the neighborhood and preserved the existing vegetation and streetscape.

Board member Kenworthy reviewed the information that was submitted and the discussion provided and stated that he would find the application to be complete. The Board has to rely on the processes set out before them and is aware that the building process is sometimes a moving target that plans may change and evolved throughout that process.

Board member Crosby was hearing two arguments coming from the appellant; that the application is not complete, and that he simply does not like some aspects of the design. From the information before her she deemed the application to be complete but she did however have additional conditions dealing with the applicant accommodating some design concerns.

Board member Holmgren agreed that the application is complete with the information that the applicant provided. She did not wish to discuss the issue of the Steep Slope Conditional Use Permit as it was the purview of the Planning Commission and not something that the Board could consider. She additionally found that the retaining walls were to be addressed outside by Staff through the Administrative Conditional Use Permit if necessary. Vegetation has been shown on the plans. In regards to the panelization issue she remembered when the City started phasing away from that preservation method because it was more effort than it was worth. She required additional time to review the matter of the historic structure and footprint before drawing a conclusion on that time. She liked having the transitional flat roof line.

Chair McFawn thanked the appellant for the well thought out discussion items. He concurred with the other Board members with the application being complete and the CUP item should be under the purview of the Planning Commission. He did not believe the panelization was approved at this point and that it would be further addressed by the Chief Building Official and Planning Director. One of the goals with the new Guidelines was to clearly delineate the original historic roof line from the new addition using a transitional element. This is a universally excepted historic preservation method to delineate the old and the new elements of buildings. He requested discussion from the Board on some of the Design Guidelines that were raised in the appeal.

Board member Holmgren referred to page 34 and raised the issue of the string-line. She realized that the street grade may create issues but what is seen on the streetscape is that the proposed building is above the string-line and would like the applicant and Architect to make that element more compatible with the surrounding structures. Chair McFawn wished that to be address in an additional Condition of Approval that create a roofline more compatible to the structures surrounding it per the Guidelines. Planner Whetstone stated that the staff did put a Condition of Approval on the rear peak height of the roof. Staff suggested having the applicant provide an updated streetscape.

Board member Kenworthy wish to have more discussion regarding the proposed retaining wall and the tree in the City right-of-way. Chair McFawn replied that the staff provided feedback on the protection of the vegetation on page 7 of the packet in the first full paragraph. He suggested an Engineer review the submitted plan for the retaining wall and also have a certified arborist to examine the tree in question. Board member Kenworthy felt the applicant was open to and sensitive of the preservation of the vegetation. Planner Whetstone asked if the Board wanted to make that a Condition of Approval at the building permit stage or if the Board wished to review that and see if it is consistent with the Guidelines. Board member Kenworthy preferred the review take place sooner rather than later in the process. Chair McFawn agreed with Board member Kenworthy. Board member Crosby asked what the timeline would be for a certified arborist to evaluate the health of the trees. Planning Director Eddington replied that typically that as the applicant comes in for a building permit those plans are reviewed by the Planning department again. At that time the applicant would submit the information provided by a certified arborist. Additionally a landscape bond would be required to ensure that vegetation is protected. Staff can revise the Conditional of Approval for the mitigation plan to make higher standards to ensure that the engineer for the retaining walls and the certified arborist talk to find the best solution for preservation of the tree within the right-of-way.

Board member Kenworthy was comfortable in creating a motion to Deny the appellant's request for a reversal of the Planning Staff's decision to approve the HDDR application at 505 Woodside Avenue as amended. The Board was concerned regarding the issues discussed above and wanted Staff to prepare Conditions of Approvals to address those issues. Chair McFawn particularly wanted to be able to see a visualization of a revised string-line.

The Board discussed whether to Deny the appeal in whole or partially or to continue the item. City Attorney Samuel-Mclean wanted to know if the Board wanted to add Conditions of Approval or to review the materials in question; string-line of streetscape and communications between an engineer and certified arborist. Board member Holmgren wished to review the updated streetscape. That was the largest concern that Board member Kenworthy had. Chair McFawn wanted to see a written Condition of the communication plan and the preservation guarantee of the vegetation in the front right-of-way.

Planner Whetstone reiterated that the Board is asking Staff to additional information so that the Board can make a determination on how the addition complies to the Guidelines in respect to the visual from the street and that is subordinate to the existing structure.

Chair McFawn wanted to be fair to all parties in regards to continuation and that the Board should consider that sensitively. City Attorney Samuel-Mclean felt the most ideal remedy would be to come back to the Historic Preservation Board prior to April 10. Planning Director Eddington said that the Board could meet on April 3. Board members agreed that they could attend. Legal Counsel offered choices as to action. The Board can Deny the appeal in part; all aspects of the appeal are Deny with the exception of those items that you want more information on. Chair McFawn felt that was the general course of action.

Chair McFawn asked that the appellant be provide with the updated streetscape as soon as it is available.

MOTION: Board member Kenworthy moved to Deny the appeal of the Historic District Design Review of 505 Woodside Avenue in part; items 1, 3 (with conditions) 4, and 5. Appeal item 2 is not being reviewed by the Historic Preservation Board as it is not within the body's purview. The Board directed Staff to return to the Board on April 3, 2013 with information regarding; written plan for review and approval of the proposed retaining wall by an engineer and signed off by a certified arborist to guarantee the preservation of the tree in the City right-of-way and that Staff will provide an updated streetscape plan to show the proposed string-line. Board member Holmgren seconded the motion.

VOTE: 4-0. Motion carried unanimously.

Board member Holmgren questioned whether it was standard practice to allow an appellant to supplement appeals with new argument statements outside of the appeal deadline. City Attorney Samuel-Mclean answered that the Board of Adjustment has said that in the past that if the appellant provides supplemental information that the appellant body should review that information. She believed there was more flexibility permitted in these Quasi-Judicial reviews. In this case in particular many of these items weren't new

on the 28th, they were brought up during the Design Review process. The Land Management Code does state that the appeal should cover all of the main arguments of the appeal. Chair McFawn did say that this Board is historically more flexible. Board member Holmgren offered a personal opinion that she found some things to be unacceptable and inappropriate in the appeal and those were comments about David White.

Board member Kenworthy added that he had never seen the previous appeal and is review this application on its merits alone.

MOTION: Board member Holmgren moved to adjourn the meeting. Board member Crosby seconded the motion.

VOTE: 4-0. Motion carried unanimously.

The meeting adjourned at 7:03 p.m.

Approved by _____
David McFawn, Chair
Historic Preservation Board