

**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION
CITY HALL, COUNCIL CHAMBERS
JULY 11, 2012**



AGENDA

MEETING CALLED TO ORDER - 5:30 PM			pg
ROLL CALL			
ADOPTION OF MINUTES OF JUNE 27, 2012			5
PUBLIC COMMUNICATIONS – <i>Items not scheduled on the regular agenda</i>			
STAFF AND BOARD COMMUNICATIONS/DISCLOSURES			
Election of Chair and Vice-Chair			
CONTINUATION(S) – <i>Public hearing and continuation as outlined below</i>			
30 Sampson Avenue – Steep Slope Conditional Use Permit	PL-12-01487		
<i>Public hearing and continuation to July 25, 2012</i>			
2175 Sidewinder Drive, Prospector Square – Amended Record of Survey	PL-12-01522		
<i>Public hearing and continuation to a date uncertain</i>			
REGULAR AGENDA – <i>Discussion, public hearing, and possible action as outlined below</i>			
916 Empire Avenue – Steep Slope Conditional Use Permit	PL-12-01533		37
<i>Public hearing and possible action</i>			
429 Woodside Avenue – Plat Amendment	PL-12-01550		61
<i>Public hearing and possible recommendation to City Council</i>			
573 Main Street, Claimjumper – Plat Amendment	PL-10-01105		85
<i>Public hearing and possible recommendation to City Council</i>			
ADJOURN			

A majority of Planning Commission members may meet socially after the meeting. If so, the location will be announced by the Chair person. City business will not be conducted.

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Park City Planning Department at (435) 615-5060 24 hours prior to the meeting.
Planning Commission - July 11, 2012

MINUTES – JUNE 27, 2012

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JUNE 27, 2012

COMMISSIONERS IN ATTENDANCE:

Chair Pro Tem, Jack Thomas, Brooke Hontz, Adam Strachan, Nann Worel

EX OFFICIO:

Kirsten Whetstone, Planner; Francisco Astorga, Planner; Matthew Evans, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

In the absence of a Chair and Vice-Chair this evening, the Commissioners elected a Chair Pro Tem to conduct the meeting.

MOTION: Commissioner Hontz moved to nominate Jack Thomas as the Chair Pro Tem for the evening. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

ROLL CALL

Chair Pro Tem Thomas called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioners Wintzer and Savage, who were excused.

ADOPTION OF MINUTES

May 30, 2012

MOTION: Commissioner Strachan moved to ADOPT the minutes of May 30, 2012 as written. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

June 13, 2012

MOTION: Commissioner Worel moved to ADOPT the minutes of June 13, 2012 as written. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planner Whetstone reported that the Staff was in the process of trying to schedule another joint meeting with the Snyderville Basin Planning Commission for late August.

Chair Pro Tem Thomas disclosed that he has had minor business with both attorneys involved in the Claimjumper proposal. That association did not present a conflict nor would it influence his decision on the Claimjumper matter this evening.

CONTINUATION(S) – Public Hearing and Continue to Date Specified

Richards/PCMC Parcel – Annexation Petition (Application #PL-12-01482)

Chair Pro Tem Thomas opened the public hearing. There was no comment. Chair Pro Tem Thomas closed the public hearing.

MOTION: Commissioner Strachan moved to CONTINUE the Richards/PCMC Parcel Annexation Petition to August 8, 2012. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

30 Sampson Avenue – Steep Slope Conditional Use Permit (Application #PL-12-01487)

Chair Pro Tem Thomas opened the public hearing. There was no comment. Chair Pro Tem Thomas closed the public hearing.

MOTION: Commissioner Strachan moved to CONTINUE the 30 Sampson Avenue Steep Slope Conditional Use Permit to July 11, 2012. Commissioner Worel seconded the motion.

80 Daly Avenue – Plat Amendment (Application #PL-12-01488)

Planner Francisco Astorga noted that this was the third time this item would be continued. He suggested that the Planning Commission continue to a date uncertain rather than to July 11th as stated in the agenda.

Chair Pro Tem Thomas opened the public hearing. There was no comment. Chair Pro Tem Thomas closed the public hearing.

MOTION: Commissioner Strachan moved to CONTINUE the 80 Daly Avenue Plat Amendment to a date uncertain. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

**1. 2700 Deer Valley Drive #B-304 – Amendment to Record of Survey
(Application #PL-12-01545)**

Planner Kirsten Whetstone reviewed the request for a condominium plat amendment for Courchevel Condominiums Unit B-304, third floor, to add private area in the attic space. Planner Whetstone presented a photo showing that a window would be added in that area. She noted that additional unit equivalents were still available in the Deer Valley Master Plan.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council for this plat amendment with the findings of fact, conclusions of law and conditions of approval as stated in the Draft Ordinance.

Chair Pro Tem Thomas opened the public hearing.

There were no comments.

Chair Pro Tem Thomas closed the public hearing.

Chair Pro Tem Thomas suggested that the applicant provide clearer drawings and an elevation drawing showing the windows.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council for the Courchevel Condominium record of survey amendment. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 2700 Deer Valley Drive East

1. The Courchevel Condominiums are located at 2700 Deer Valley Drive East within the Deer Valley Community portion of the Deer Valley Resort Master Planned Development (MPD).
2. The Courchevel Condominium at Deer Valley record of survey was approved by the City Council on December 27, 1984 and recorded at Summit County on December 31, 1984.
3. The Courchevel Condominiums at Deer Valley record of survey plat recorded 40 residential condominium units of 759 square feet each with 60 parking spaces in a shared underground garage.
4. There are two (2) access driveways from the garage to Deer Valley Drive East.

5. In November of 1989, an amended record of survey plat was approved and recorded increasing the number of residential condominium units to forty-one (41).
6. In February of 2012, a second amendment record of survey plat was recorded. This second amendment converted 608 square feet of common attic area above each of Units B301 and B303, 1,216 square feet total, to private area.
7. Two of the three approved Courchevel buildings (Buildings B and C) were constructed beginning in 1984 and completed in 1988. Building A was never constructed.
8. The second amendment reflected that Building A was not built and removed it from the record of survey.
9. On June 13, 2012, a third amendment record of survey plat was reviewed by the Planning Commission and is scheduled for a public hearing by City Council on June 28, 2012. This third amendment proposes to convert 470 square feet of common attic area above Unit B202 to private area for an additional bedroom and bathroom.
10. Currently there are 27 condominium units and 29 parking spaces. The third amendment proposes to create 2 additional parking spaces within the existing garage for a total of 31 parking spaces.
11. Each existing condominium unit contains 759 square feet, except for Units B301 and B303, which contain a total of 1,367 square feet and Unit B202 is proposed to contain 1,229.
12. The property is subject to requirements and restrictions of the Deer Valley Resort 10th Amended and Restated Large Scale MPD.
13. The MPD originally allowed up to 20.5 UEs for the Courchevel parcel.
14. The MPD was amended in 2001 to transfer seven (7) UEs as 14,000 square feet to the Silver Baron condominium project, adjacent to the north, leaving 13.5 UEs for the Courchevel property.
15. At 2,000 square feet per UE, the total allowable residential square footage is 27,000 square feet. The existing residential square footage for the 27 condominium units is 22,179 square feet, including the pending 470 for Unit B202 subject to approval of the third amendment.
16. On May 9, 2012 the City received a completed application for a fourth amendment to the Courchevel Condominiums at Deer Valley record of survey requesting conversion of 608 square feet of common attic area above Unit B304 to private area for an additional bedroom and bathroom.
17. Unit B304 is located on the second floor of Building B.

18. In January 2011, Courchevel Condominium owner's association voted to approve construction of additional floor area and the transfer of 470 square feet of common space to private space for Unit B202 and 608 square feet for Unit B304.
19. The only exterior change proposed is the is the addition of a matching window on the south side of Building B.
20. The proposed amendment is consistent with the purpose statements of the district.
21. Unit B304 would increase by 680 square feet from 759 square feet to 1,367 square feet and the total floor area would be 22,787 square feet.
22. The total proposed UE for the project, including the pending third amendment and this fourth amendment, would be 11.39 UE.
23. The current Deer Valley MPD allows 13.5 UE for Courchevel Condominiums. If this amendment is approved and recorded there will be 4,213 square feet (2.1 UE) of floor area remaining for future conversion of common area to private area. An additional parking space would be required for each unit that exceeds 1,000 square feet, unless a parking exception is approved by the Planning Commission per LMC Section 15-3-7.
24. The building does not exceed the allowable 35' building height and there are no non-conforming setback issues.
25. All construction is proposed within the existing building envelope.
26. The current LMC requires two (2) spaces for each of the amended units greater than 1,000 square feet and less than 2,500 square feet. The proposed fourth amendment complies with this requirement.
29. There is undeveloped land on the property available for construction of additional off-street surface parking; however, lack of parking for this property has not been an issue in the past and sufficient parking for the proposed addition to Unit B3034, as well as B202, proposed with the third amendment, can be provided within the parking structure. One guest drop-off parking space will be striped outside of the garage on the southern portion of the west entrance driveway.
30. The property is located at the base area for Deer Valley Ski Resort and on the Park City bus route.
31. The expanded unit would comply with the current parking code.

Conclusions of Law – 2700 Deer Valley Drive

1. There is good cause for this record of survey.

2. The record of survey is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.
3. As conditioned, the record of survey plat is consistent with the Deer Valley Resort MPD, 10th amended and restated.
4. Neither the public nor any person will be materially injured by the proposed record of survey.
5. Approval of the record of survey, subject to the conditions state below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 2700 Deer Valley Drive

1. The City Attorney and City Engineer will review and approve the final form and content of the record of survey for compliance with State law, the Land Management Code, and conditions of approval.
2. The applicant will record the record of survey at the County within one (1) year from the date of City Council approval. If recordation has not occurred within one (1) year's time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. All construction requires a Building Permit and approvals from the Building and Planning Departments. No certificate of occupancy for the addition to Unit B304 shall be issued until this plat amendment is recorded. Residential fire sprinklers are required.
4. All conditions of approval of the Deer Valley Resort 10th Amended and restated large Scale MPD and the amended Courchevel Condominiums at Deer Valley record of survey plats shall continue to apply.
5. Recordation of this fourth amendment shall occur after recordation of the third amendment.

2. **455 Park Avenue – Conditional Use Permit for a garage in the setback
(Application #PL-12-01505)**

Planner Astorga reviewed the application for a conditional use permit as outlined in the LMC, for an exception to reduce the standard setbacks. The lot is currently 15 feet long and the standard setback is 5 feet. The Code indicates that for historic structures, if the scale of the addition is compatible with the structure, the Planning Commission may grant a reduced setback.

Planner Astorga noted that the Planning Department received a Historic District Design Review in conjunction with this application. The Staff reviewed the HDDR under the required procedure and approved it conditioned on Planning Commission approval of the setback reduction. Planner Astorga noted that the outcome of the discussion this evening could trigger an amendment to the Historic District Design Review application.

Planner Astorga referred to an exhibit on Page 77 of the Staff report, and noted that the red color outlined the shape of the historic structure. The orange color was the setback line. The addition would take place on the lower level, the main level and the upper level. However, the only area where the applicant was currently requesting a reduced setback was over the lower level for the garage. The proposed reduction would be from five feet to two feet.

Planner Astorga presented power point exhibits to show the comparison of current and proposed setbacks, as well as the orientation on the site for visual analysis.

The Staff recommended that the Planning Commission review the proposed conditional use permit for the exception of the side yard setback at 455 Park Avenue and consider approving the requested proposal based on the findings of fact, conclusions of law and conditions of approval found in the Staff report.

Rick Otto, representing the applicant, stated that the issue resulted from the owner wanting a garage for the home. It was a typical situation of trying to get a car off of Park Avenue and having space to park. The only way the garage would fit is to have a 2 foot setback.

Chair Pro Tem Thomas asked for the width of the garage door. Mr. Otto replied that currently it is a 9 foot door. Chair Pro Tem Thomas noted that the garage was not excessively wide.

Commissioner Strachan asked if the two evergreens would be removed to accommodate the garage. Mr. Otto replied that the two evergreens would remain.

Commissioner Hontz noted that pages 78 and 79 of the Staff report talked about the close proximity of the neighboring structure to the property line. Planner Astorga replied that the neighboring structure, which is a landmark historic structure, is right on the property line. Planner Astorga stated that the scale of the garage and how it recesses back 30 feet from the front property line creates the opposite of a wall effect. Because it recesses back, the scale was found to be in compliance. He noted that a condition of approval requires that snow shedding issues be resolved to the satisfaction of the Chief Building Official. The condition as written was a direct quote from the LMC.

Commissioner Strachan asked if the structure that sits on the property line was a home or a garage. Mr. Otto stated that it was a home. Commissioner Strachan asked if the two garages would be adjacent. Mr. Otto explained that the garage for the landmark structure is on the south and the proposed garage would be on the north side. Therefore, there would be separation between the two garages. In addition, the proposed garage would be recessed 20-30 feet from the property line.

Chair Pro Tem Thomas opened the public hearing.

There were no comments.

Chair Pro Tem Thomas opened the public hearing.

Commissioner Hontz stated that unless the HDDR came back with issues, there was nothing to prohibit replicating the barrage of garages throughout Old Town. Part of the problem was not necessarily the garage itself, but what would happen to the beautiful historic home. She remarked that once a home gets a garage, the number of vehicles associated with the structure increases and cars are still parked on the street. Garages seem to be causing more of a problem throughout Old Town and she knows this because she lives it. Commissioner Hontz understood that she could not dispute anything based on the LMC, and clarified that her statement was an overall comment that she would prefer not to see these garages in the future. She noted that the Planning Commission would be reviewing another item with a similar garage issue and it was becoming more and more problematic.

Chair Pro Tem Thomas had visited the site and he was comfortable with the application. He pointed out that in the past streetscapes were required and it is helpful to the Planning Commission when a streetscape is provided. Seeing two or three houses left and right of the each project helps them to understand the rhythm of the architecture along the street.

Chair Pro Tem Thomas remarked that because the garage is shifted back from the primary façade it still gives credence to the historic value of the historic façade. Mr. Otto remarked that the shift back was a criteria recommended by the Planning Department. Chair Pro Tem Thomas understood Commissioner Hontz's comments regarding the garage barrage, and agreed that the discussion needed to stay within the LMC.

Commissioner Strachan believed the setback mitigates the garage barrage. Based on how the LMC is structured and the requirement to provide off-street parking, the applicants were caught between the LMC requirement and the limited ability to build a garage on site. He thought that should be a discussion for another time. Commissioner Worel concurred.

Assistant City Attorney Polly Samuels McLean clarified that off-street parking was not required for historic houses. The requirement only applies to new construction.

MOTION: Commissioner Strachan moved to approve the conditional use permit application for 455 Park Avenue according to the Findings of Fact, Conclusions of Law and Conditions of Approval as outlined in the Staff report. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 455 Park Avenue

1. The site is located at 455 Park Avenue.
2. The site is within the HR-1 District.
3. The applicant requests an exception to the north side yard building setback of five feet (5') to two feet three inches (2'3") for an addition.

4. In order to achieve new construction consistent with the Historic District Design Guidelines, the Planning Commission may grant an exception to the building setbacks for additions to historic structures per LMC 15-155-2.2-4(A).
5. The proposed addition includes 1,008.5 square feet to be added to the lower, main, and upper level.
6. The existing structure has a building footprint of 1,087.3 square feet.
7. The proposed addition will expand the building footprint to 1,493 square feet.
8. The site contains a non-historic shed in the back of the site of 96 square feet which will be removed in conjunction with this proposal.
9. The maximum building footprint is 1,519 square feet.
10. The Park City HSI classifies the site as a Landmark.
11. The existing structure consists of a total of 2,916 square feet.
12. The proposed main and upper level additions meet the minimum setback of five feet (5').
13. The lower level addition is being proposed at two feet three inches (2'3" from the property line to accommodate the width of a new one car garage.
14. Planning Department Staff approved a submitted HDDR on June 12, 2012.
15. The approved HDDR has a specific condition of approval that indicates that the reduced setback exception request will need to be reviewed and approved by the Planning Commission per the LMC prior to issuance of any building permits.
15. Any possible changes to the approved HDDR, that are a result of the Planning Commission's review of this Conditional Use Permit, shall be incorporated into the building plans prior to final building permit issuance and the HDDR will have to be amended.
16. Any possible changes to the approved HDDR, that are a result of the Planning Commission's review of this Conditional Use Permit, shall be incorporated into the building plans prior to final building permit issuance and the HDDR will have to be amended.
17. The portion of the garage addition that necessitates the side yard setback exception encroaches approximately two and a half feet (2-1/2') into the standard setback of five feet (5'), the entire length of the proposed garage, approximately twenty-three feet (23') in length.
18. The front of the garage addition is setback thirty-feet (30') from the front property line.

19. The front of the garage addition is setback fourteen feet (14') from the front façade of the front porch.
20. The structure north of this site, 463 Park Avenue, is a historic landmark structure built right on the subject property line and is setback fourteen feet (14') from the front property line.
21. The front of the garage addition is setback seventeen feet (17') from the front façade of the neighboring historic structure, 463 Park Avenue.
22. The different setbacks of the existing structure, proposed garage addition, and neighboring north neighboring structure break a perceived wall that could have been created and add a different rhythm to the front setbacks compatible in Old Town.
23. Site plans and building designs must resolve snow release issues to the satisfaction of the Chief Building Official. The applicant shall comply with this snow release requirement.
24. The use of the site would remain the same as single family dwelling, however off-street parking would be provided.
25. No additional utility capacity is required for this project.
26. Emergency vehicles can easily access the project and no additional access is required.
27. The current LMC indicates that historic structures that do not comply with off-street parking are valid complying structures and additions to historic structures are exempt from off-street parking requirements provided the addition does not create a lockout unit or an accessory apartment.
28. The proposed addition does not create a lockout unit or an accessory apartment.
29. The proposed addition does not provide a one (1) car garage and its corresponding driveway accessed directly off Park Avenue and a legal parking space on the driveway.
30. The driveway is thirty feet (30') in length and ten feet (10') in width.
31. The addition has been deemed appropriate in terms of mass, bulk, orientation and location on the site.
32. The addition has been carefully designed to read as an addition to a historic structure.
33. The increased setback and the vertical step-back break up the building mass of the proposed addition.
34. No useable open space will be affected with the requested use from what is currently found on site.

35. No signs and lighting are associated with this proposal.
36. All future lighting will be subject to the LMC development standards related to lighting and will be reviewed for compliance with the LMC and Design Guidelines at the time of the building permit review.
37. Any existing exterior lighting will be required, as part of this application, to be brought up to current standards.
38. The additions have been deemed appropriate in terms of physical design and compatibility with surrounding structures in mass, scale and style.
39. The increased setback and the vertical step-back allow the proposed addition to be compatible with the structure in terms of mass, scale and style.
40. Noise, vibration, odors, steam or mechanical factors are anticipated that are normally associated within the residential use.
41. The proposal will not affect any control of delivery and service vehicles, loading and unloading zones that customarily associated with the residential use.
42. The expected ownership and management of the property is not projected to add impacts that would need additional mitigation.
43. The proposal is located within the Sensitive Lands Overlay.
44. Staff has reviewed the proposed addition and finds that it complies with all other provisions outlined in LMC Chapter 2.2 Historic Residential District.
45. The proposed addition shall also comply with all application International Building and Fire Codes.

Conclusions of Law – 455 Park Avenue

1. The proposed application as conditioned complies with all requirements of the Land Management Code.
2. The use as conditioned will be compatible with surrounding structures in use, scale, mass and circulation.
3. The use as conditioned is consistent with the Park City General Plan, as amended.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 455 Park Avenue

1. All standard conditions of approval shall continue to apply.
2. All conditions of approval of the 455 Park Avenue Plat Amendment shall continue to apply.
3. The setback reduction shall be reduced for the current proposal. Future expansions are not anticipated as part of this review and any future additions expanding onto the minimum setback shall be reviewed by the Planning Commission as a conditional use.
4. All future lighting will be subject to the LMC development standards related to lighting.
5. Any existing lighting will be required, as part of this application, to be brought up to current standards prior to issuance of a certificate of occupancy for the addition.
6. The proposed addition shall comply with all other provisions outlined in LMC Chapter 2.2 Historic Residential District.
7. The proposed addition shall comply with all application International Building and Fire Codes.
8. The applicant shall remove the shed located in the rear yard in conjunction with this proposal.
9. The building permit plans shall resolve snow release issues to the satisfaction of the Chief Building Official.

3. **543 Woodside Avenue – Steep Slope Conditional Use Permit**
(Application #PL-12-01507)

Planner Matthew Evans reviewed the request for a steep slope conditional use permit. The applicant was proposing an addition to an existing Landmark structure on the site. The existing home is a 2,025 square feet single family dwelling. There is also a detached historic accessory building on site that is currently used as an accessory dwelling unit. Under the current proposal, the accessory dwelling unit goes away and it becomes an accessory structure. The applicant was also proposing to add a basement level to this home, as well as a garage, and a rear addition, with a deck on the rear addition.

Planner Evans provided a photo of the historic home in its existing condition.

Planner Evans recalled that previously this lot came before the Planning Commission for a plat amendment to combine two parcels into one.

Chair Pro Tem Thomas referred to the survey and counted five trees in front of the property. He would address those trees later in the discussion.

Planner Evans reiterated that the proposal was to add a subterranean level, which would be a single car garage with two levels above. The accessory dwelling was not counted against the maximum footprint of the home. The calculation was explained in the Staff report.

Commissioner Strachan understood that the setback from the front would be 15 feet. Planner Evans replied that it was 11 feet. Commissioner Hontz pointed out a discrepancy in the Staff report that identified the setback as 15 feet on one table and 11 feet on another. The correct setback was 11 feet. Commissioner Strachan asked for the setbacks on Lots 10, 9, 13 and 14. Chair Pro Tem Thomas believed the setbacks on those lots were along the same line. Commissioner Strachan clarified that he was trying to find out if there was any variation in the setback between the neighboring lots and 543 Woodside to avoid the appearance of a wall. Commissioner Worel did not think it looked like a wall from the survey provided.

Planner Whetstone asked if the house would be moved forward. Jonathan DeGray, the project architect, answered no. Planner Evans passed around an exhibit that was inadvertently left out of the Staff report.

Mr. DeGray referred to the streetscape and noted that two substantive changes were proposed. The first was to bring back the staircase that was the historic approach to the building and went all the way up to the top floor. The staircase was removed from the existing structure and the access was to the lower level. The Staff requested that the applicant bring back the historic entrance and the applicant complied. The second change was the addition of the garage door. Mr. DeGray pointed out that the square bay window was removed at some point in the past, and the applicant was proposing to bring that back as well.

Commissioner Worel indicated a discrepancy in the Staff report as to whether it was a one or two car garage. Mr. DeGray stated that it is a one car garage door, but if the cars are small, they can be tandem. It does not meet the requirements of two off-street parking spaces; therefore, it is considered a one-car garage.

Chair Pro Tem Thomas opened the public hearing.

John Plunkett, a resident across the street from this project on Woodside, felt this project was an excellent example of how to do historic restoration properly. He complimented Mr. DeGray on his work. Mr. Plunkett recalled resistance from the City a few years ago for allowing a garage in this particular situation on Woodside. However, in restoring these historic homes, it does not make sense economically if they could not have a garage. He thought the applicant and Mr. DeGray came up with a very good solution.

Chair Pro Tem Thomas closed the public hearing.

Commissioner Hontz asked Mr. DeGray to explain how the driveway would work. One exhibit showed that one side of the driveway would be sloping at 5.7% and the other side of the driveway would be much steeper at 13.3% slope. Commissioner Hontz understood the regulation that driveways could go up to 14% slope, but it has not worked in some places in Old Town. She was trying to envision how it would work on this site and what it would look like.

Mr. DeGray replied that it is warped from one side to the other and it slopes down towards the garage door. The trench drain elevation is at 79'-10-1/2". The street elevation at the center of the drive is at 81'9". There is almost two feet of fall between the road and the trench drain. Mr. DeGray cited several examples of where this was done in Old Town successfully. He stated that the cross slope at 6% is a very parkable driveway. Typical slopes in parking lots range from 2% to 4%. There was plenty of evidence in Old Town that a 15' driveway with a 2' fall works. It may not be the ideal situation and he would prefer to do something softer, but he has to meet the street. He offered the possibility of narrowing the driveway to 12' feet since it is a single-car garage.

Chair Pro Tem Thomas understood that the trench drain to the garage door was a transition slope. Mr. DeGray replied that this was correct. Chair Pro Tem Thomas thought the driveway as proposed was reasonable. Mr. DeGray referred to the south elevation, and noted that the dash line at the garage level showed the steepness of the driveway.

Commissioner Strachan referred to page 120 of the Staff report, Exhibit A2.3, and asked if the line identified as lower level was the existing lower level. Mr. DeGray answered yes. Commissioner Strachan understood that everything below that level would be excavated. Mr. DeGray replied that this was correct. Commissioner Strachan had concerns with how the excavation could be minimized because the LMC requires that there be as little excavation as possible. In his opinion, because of the height limitation, the applicant chose to dig down instead of building up. That was acceptable as long as they could mitigate the effects of excavating a significant amount of land. Commissioner Strachan asked if the applicant had mitigation efforts in mind.

Mr. DeGray asked Commissioner Strachan to clarify whether he was asking what would happen to the soil or what was being done to support the earth walls during construction. Commissioner Strachan was unsure what mitigation efforts would be required, but they have to comply with the LMC, which states that the amount of excavation must be minimized. In this case, excavation was not being minimized and they were essentially adding another level of structure by digging down. Unless that could be mitigated, he saw it as a way around the height restriction. Mr. DeGray stated that the purpose was to get the garage to work underneath the building without exceeding the levels required in the Code, and gaining garage access without disrupting the historic structure. They were also trying to respect the idea that it is a landmark structure and development above the building would not be practical. As far as mitigating the impacts, they have to comply with the Building Code and all the issues regarding safety.

Commissioner Hontz remarked that the streetscape they were given this evening partially illustrates the concern expressed by Commissioner Strachan. She goes by this structure often and one reason why it still speaks to her as being an important landmark is because the site is still intact. It feels a certain height and it feels a certain way. In her opinion, the streetscape perfectly exemplifies one of the best representations of the size, scale and mass of how Old Town should look. This plan takes a landmark structure that fits the land in the way that it did historically and takes it in a different direction that looks more like the surrounding structures that are not historic. She did not believe that helped maintain the fabric of their historic community.

Chair Pro Tem Thomas noted that the square footage increased from 2,025 square feet to 4182 square feet, not including the accessory structure. Commissioner Hontz stated that it more than doubles the size and changes the look of the existing landmark structure condition. She struggled with allowing the look and feel of this structure to be taken away from the community.

Commissioner Hontz referred to page 100 of the Staff report and noted that the last sentence of the third paragraph was incomplete. She was unsure what it was trying to say. Planner Evans stated that he had been on vacation and was not involved in the final editing of the Staff report. Without looking at what he originally wrote, he was unable to complete the sentence.

Commissioner Hontz referred to the streetscape and page A2.1 of the large scale drawings. The elevation drawing on A2.1 appeared to show a third level. Chair Pro Tem Thomas agreed. The streetscape shows a two story façade on that section of the building, however, a third story facade is created with the remodel. Planner Whetstone stated that the proposed plan was illustrated in the design guidelines as a way to put a garage under a historic house, and it was reviewed under the HDDR.

Mr. DeGray stated that when he brought the design forward for HDDR they looked at examples. One example was 517 Park Avenue. It is a similar building with a square bay and a single car garage was dug underneath. After the renovation and the garage was added, 517 Park Avenue applied for and received National Registry recognition for the building.

Commissioner Strachan asked if the HDDR allows excavating for a garage but not an entire third floor. He could understand digging out for the garage on the left side of the house, but he wanted to know what the HDDR says about the area south of the garage. Planner Evan stated that the HDDR suggests that basements and garages can be added below and it allows the home to be raised a maximum of two feet. It does not allow the home to be pushed forward or back or shifted anywhere else on the lot, and the grade must be returned to within four feet.

Commissioner Hontz read from Criteria 6 of the steep slope CUP, Building Form and Scale. "...and the garage must be subordinate in design to the main building. The Planning Commission may require a garage separate from the main structure or no garage." It was unfortunate that there was no other place on the site to locate the garage, but putting the garage underneath was doubling the size of the house. Mr. DeGray pointed out that the stairway was also adding mass to the structure. Commissioner Hontz agreed that in looking at the streetscape, the stairway and planters added to the visual mass. Another discrepancy in the Staff report was whether or not the trees would be removed. Mr. DeGray stated that the trees would be removed; however the landscape plan demonstrates how the loss would be mitigated.

Commissioner Strachan referred to the table on page 98 of the Staff report under Basement/Garage, and noted that 752 square feet was living space and the garage was 486 square feet. In his opinion, the HDDR envisions the 486 square foot garage. However, the 752 square feet of additional living space that essentially adds another floor to the building was not envisioned by the HDDR.

Commissioner Worel agreed with Commissioner Strachan. She understood that the purpose was to create access from the house to the garage. Mr. DeGray explained that 752 square feet is finished space, but it would be used for a mud room, mechanical, stairway, storage and elevator. They were gaining utility out of the basement because it allows them to maintain living space above it.

Commissioner Strachan argued that it was habitable living space, which would not be allowed. Chair Pro Tem Thomas pointed out that it could not be used as living space because it would not have natural light and egress. Mr. DeGray concurred that it was finished space but not living space.

Assistant City Attorney McLean read the Code section for the HR-1 section regarding height. "A structure may have a maximum of three stories. A basement counts as a first story within this zone. Attics are not habitable space and do not count as a story. A ten foot minimum horizontal step in the downhill façade is required for the third story of a structure unless the first story is located completely under the finished grade on all sides of the structure. A structure in which the first story is located completely under finished grade, a side or rear entrance into a garage, which is not visible from the front façade or street right-of-way, is allowed."

Commissioner Worel asked if the two windows shown on A2.3 were in the garage. Planner Whetstone stated that the windows were on the lower level above the basement.

Mr. DeGray pointed out that the existing streetscape has a staircase that only goes up to the lower level of the house. The Staff asked the applicant to create a staircase that replicates the historic entrance to the house, and that was a much more massive element.

Steve Maxwell, the applicant, remarked that taking the stairway all the way up really changes the dynamics of the house on the streetscape. He was disappointed that there was not a historic picture of the house with the full staircase because the original house was massive. He has owned the house for four years and this was his second time going through the design review process. The first time was because of the accessory building in the rear. When he came back for the second review, everyone decided that the accessory building was a historic shed. Mr. Maxwell commented on the amount of planning that went into extending the staircase to the upper floor.

Chair Pro Tem Thomas was comfortable with the east elevation. He thought it was well executed and that Mr. DeGray had done the best he could to incorporate a garage into a historic house. Chair Pro Tem Thomas remarked that a landscape plan would help the Commissioners understand how the building steps away from the street façade. He suggested that landscaping could be integrated on the right-hand side of the east elevation to soften the visual impact. He did not believe the Code would prohibit excavating into the last pavilion where the stair core, the mud room and the mechanical were located, but he personally felt the amount of retaining wall was significant to create that space. Mr. DeGray stated that they were trying to create access from the garage to the house in a place where it made the most sense with the plan above. Chair Pro Tem Thomas understood that this would not come back to the Planning Commission and the excavation issues would be mitigated through the construction process with the Building Department.

Planner Evans noted that a landscape plan was included as an exhibit in the Staff report. Based on that landscape plan, Chair Pro Tem Thomas preferred more landscaping to soften the visual impact from the street.

Mr. DeGray stated that the owner was not opposed to additional landscaping.

Commissioner Hontz remarked that the historic photo was helpful, but the staircase did not extend as far as the replicated staircase, which indicates that the existing grade is higher than the former grade. Mr. Maxwell stated that the original staircase continues higher than what was shown in the photo and he pointed out where you could see it continue in the photo. Commissioner Hontz thought the elevation was lower and the staircase was not steep. She felt it was obvious that its relationship to Woodside had changed over the years. Mr. DeGray disagreed. He tried to replicate the original staircase as close as possible and still comply with Code. Commissioner Hontz clarified that she needed time to understand what was being proposed and compare it with Code before she could be comfortable with the proposal.

Chair Pro Tem Thomas stated that because they were given new information at the last minute this evening, it would be appropriate to continue this item to allow time to review the information before making a decision. He thought the Planning Commission should provide clear direction to the applicant if they chose to continue.

Commissioner Strachan noted that in the past the Planning Commission has been given compatibility comparisons showing the square footage of two or three structures on each side. He thought that would be helpful for this project to address the compatibility issue. Commissioner Strachan believed the issue was a continuation of the wall of garages and home fronts that have occurred on Woodside. He acknowledged that the comparisons may show that the home is compatible with the changes on Woodside, but he needed to see the numbers.

Commissioner Hontz clarified that the comparison structures should be historic homes. She believed that would be a problem because many of the surrounding structures were not historic and were multi-family buildings. Mr. DeGray agreed that the houses on either side of 543 Woodside were quite large. Mr. Maxwell commented on the size and height of the houses next door, which dwarfed his house. He remarked that they were actually saving the existing piece and providing streetscape that was more attractive than the adjacent structures.

Commissioner Hontz felt it was important to remember that this was a Landmark structure and it could not be compared to non-historic structures on either side. The question was what could be done to support saving the house and making sure that it continues to be lived in, but not lose its historic fabric by adding the garage and planter boxes.

Commissioner Hontz requested a comparison that identifies compatibility with historic homes on the street. She also requested a more understandable and readable landscape plan. Changes for the next Staff report included better reflecting the table on Page 97 in the findings of fact and conclusions of law; and to complete the incomplete sentence on page 100. Chair Pro Tem Thomas indicated a correction to page 98 regarding the removal of trees.

MOTION: Commissioner Hontz moved to CONTINUE the Steep Slope Conditional Use Permit for 543 Woodside Avenue to July 25th, 2012. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

**4. 573 Main Street, Claimjumper – Plat Amendment
(Application #PL-10-01105)**

Planner Astorga reviewed the application for a plat amendment for a site known as the Claimjumper building site, located at 573 Main Street and approximately 564 and 572 Park Avenue. The request is to combine a total of 6 Old Town lots and portions of two lots into three lots of record.

Planner Astorga presented the County Plat Map which was attached as an exhibit on Page 132 of the Staff report, which outlined the entire property. The property has been identified with the same tax ID number. Another exhibit showed the entire area with the dividing zone line shown in blue. The majority of the Claimjumper building sits on the HCB side; however, portions of the rear additions encroach into the HR-2A District. Planner Astorga reviewed the proposed plat amendment showing that a portion of those lots would no longer cross the lot lines because all the interior lot lines would be removed.

Planner Astorga noted that the Planning Commission was scheduled to review this application on May 23rd. At that time, the applicant's representative requested that the item be continued to a future date to allow the opportunity to address concerns raised by neighboring property owners. Planner Astorga reported that the issues were not resolved from those discussions.

Planner Astorga stated that per the analysis in the Staff report, the encroachments or additions were built in 1993. The HR-2 District was created in the Land Management Code in 2000. The Staff report identifies an HR-2 Overlay District that was created prior to 2000, but it was completely different than the HR-2 Transition Zone that was enacted in 2000.

The Staff recognized that the improvements were approved by the City per the submitted information given by the property owner, including minutes from when the former Historic District Commission approved the improvements. The minutes also mention the parking lot in the back, since it was common practice in the 1980's and 1990's to move forward with these improvements without a plat amendment. Planner Astorga remarked that since the improvements were approved by the City before the HR-2A Special Requirements were enacted, the Staff considers the improvements to be legal non-conforming. If the property owner decided to enlarge or expand on this specific area, which is zoned HR-2, they would have to meet specific regulations. Special criteria in the LMC addresses enlargement to non-conforming uses and non-compliant structures.

The Staff recommended that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval.

Planner Astorga had provided the Commissioners with a letter from Joe Tesch, representing neighboring property owners, with additional conditions of approval to address the neighbors' concerns.

Chair Pro Tem Thomas opened the public hearing.

Joe Tesch, stated that he represented five different owners who live across the street from this proposal. Those neighbors were identified on page 160 of the Staff report. Mr. Tesch asked the Planning Commission to consider that it could be them living in close proximity to this building. He also asked them to keep in mind the intent of the Land Management Code for the HR-2 zone, which is to create and preserve a pedestrian friendly residential street compatible with the surrounding neighborhood. Mr. Tesch referred to page 162 of the Staff report, which showed the typical activity that has gone on for many years in the back of the Claimjumper during Sundance. He noted that page 164 showed a door that went into a bar in the basement of the Claimjumper that was allowed during Sundance as part of the Festival overall license. It was called the Bingo Bar. Mr. Tesch remarked that the Bingo Bar exited illegal on to the parking lot and caused what was shown on page 162.

Mr. Tesch noted that this goes on for ten days out of the year and it is very disruptive to the neighbors. However, with a bar and restaurant proposed full-time, he assumed they could imagine the aggravation the neighbors would experience on a daily basis.

Mr. Tesch remarked that in 2007 the City Council and the Planning Commission approved a plat amendment. As part of that plat amendment to combine the commercial into one lot, the City required removal of a bad looking wooden structure that was added to the back of the historic Claimjumper building sometime in 1993. Mr. Tesch remarked that the criteria and the legal responsibility of the Planning Commission is to find good cause to allow this plat amendment. It is a legislative function and if they have arguable basis for denying it, they can and should deny it if they do not find good cause. Mr. Tesch suggested that without the removal of the non-historic addition on the back of the historic structure, the Planning Commission could find that there was not good cause. The fact that it may be considered a non-conforming use of record is immaterial. If the applicant was not requesting a plat amendment, the City could do nothing about it. However, they have asked for a plat amendment and the City has the discretion to say they cannot find good cause unless that addition is removed, regardless of whether it was non-conforming and previously approved. Mr. Tesch asked the Assistant City Attorney to correct him if his interpretation was incorrect.

Assistant City Attorney McLean did not believe the Planning Commission could infer from the prior plat approval that the removal of the structure on the back was anything more than the fact that the prior plat amendment included that area. It seems that the more obvious reason why those were required to be removed was because it would have encroached over the proposed lot line. When a building is over a lot line the City requires the applicant to either change the lot itself or to remove the building that is over the lot line. Ms. McLean agreed that good cause is a requirement of subdivisions and that was outlined in the Staff report.

Planner Astorga clarified that at the time of the previous plat amendment approval the property owner had requested to remove the additions. An application was submitted for a determination of significance that was filed in 2006 and a follow-up application which was the HDDR. The only difference between now and then was that the previous property owner, who was different from the current property owner, requested to remove the additions. Planner Astorga wanted to make sure

that everyone understood the difference between the application of 2007 and this application in 2012.

Mr. Tesch believed he was correct on the law that good cause was a legislative act and any arguable basis allows the Planning Commission to deny it; and that includes whether or not it was a non-conforming use of record or whether it went across the lot line.

Mr. Tesch stated that the fact that this addition has four doors, none of which meet the requirements of having an alarm or any other prohibition from allowing commercial traffic from exiting those doors, is unacceptable and does not meet current Code. Mr. Tesch read from page 139 of the Staff report, Item 7, "The HR-2 portion of the property must be designed in such a manner as to absolutely prohibit non-emergency use. Alarms shall be installed on all emergency doors that provide access to Park Avenue." Mr. Tesch asked how many of the Commissioners have homes that have built-in lobbies with access to a restaurant and a bar. He asked how many of the Commissioner thought that was a good idea.

Mr. Tesch read a portion of the first paragraph on page 132, "...interior walls to create a night club//bar/restaurant on the basement level, a restaurant lobby for access to the living units above on the main level..." Mr. Tesch questioned whether these would be two residential units or whether they would become part of the commercial use. He questioned why they would have an access lobby to true residential units. If they do have lobby access to the so-called residential units and there are four doors leading out of those, none of which have alarms, there is no way to stop traffic from the commercial restaurant and bar from going out those doors. Mr. Tesch pointed out that no solution was even suggested. Since there was no solution and the Code states that it must be constructed with an absolute bar from any commercial traffic going out those doors, the application does not meet Code and cannot be approved.

Mr. Tesch commented on problems with other bars down the street, and noted that all the complaints from those neighborhoods resulted in the HR-2A subzone, which says bars are not prohibited or discouraged, but they must absolutely prohibit access from the commercial to the HR-2 portion of the building or the lots. Mr. Tesch stated that this applicant has not done that or even suggested a way to prohibit access. He remarked that the answer seems to be that there are only two parking spot, but in his opinion that is not an answer. There needs to be absolute prohibition.

Mr. Tesch remarked that this same owner has a history of violations as evidenced by the activity that occurred during Sundance. He stated that neighbors told him that limousines were lined up on Park Avenue so people could go into the Bingo Bar through those double doors. Mr. Tesch could find nothing that would suggest that this owner should be trusted.

Mr. Tesch reviewed a list of complaints from recent violations contained on page 141 of the Staff report.

Mr. Tesch reiterated that the proposal does not meet Code and the Planning Commission could require that the building that crosses over into the HR-2 be removed. He encouraged the Planning Commission to take that action. However, if they choose to approve the plat amendment, he had drafted additional conditions of approval. The first five conditions and condition 12 were drafted by Staff and taken from the Staff report. Condition #12 was written by Staff as condition #7 in the Staff

report. He explained the reasons why he had written conditions 6-11 and why the Planning Commission should consider them.

Conditions #6 addressed removal of the existing parking lot. As written by Staff, the applicant could replace the parking lot with gravel. Mr. Tesch proposed replacing the current surface with landscaping until homes are built on the HR-2 lots. The landscape plan should be approved by the City and clearly prohibit parking of any vehicles. Conditions #7 addressed the easements. Mr. Tesch stated that the residential walkway from the two parking spaces was proposed to be six feet wide, which is wide enough to back a truck up to the door. He suggested reducing the easement to four feet to avoid potential vehicle access. Condition #8 addressed residential properties on the upper level. He wrote the condition to say that the interior build out of these residential units shall be such as to prohibit access from the commercial units. She pointed out that if there is a lobby that encourages access, they would actually have a four-story commercial building. Mr. Tesch and his clients were not opposed to a fully commercial building, as long as it meets the absolute requirement of the Code and prohibits access from the commercial to the HR-2 zone. Condition #9 was written to allow only one emergency single width exit only door from the HCB to the HR2 lots. Currently there are four doors. All other exits must funnel the occupants into the HCB zone per the HR-2 Subzone A. Condition #10 addressed barriers and gates to prohibit parking or vehicle access behind the two allowed spaces. Condition #11 addressed screening of roof mounted mechanical equipment to protect the neighbors from noise and visual impacts.

Mr. Tesch thanked the Planning Commission for their patience and he offered to answer any questions.

Hope Melville, a resident on Park Avenue, questioned whether any residential structure could be built on Lots 2 and 3 based on how the lots are set up in the plat amendment. In her opinion, the lots appeared to be too short. She wanted to know the consideration for those lots and what could be built. If Lots 2 and 3 were adjacent and the garage was not splitting the lots, it might be possible to build one residence. Ms. Melville remarked that what happens on Lots 2 and 3 affects what Park Avenue would look like. As a resident she felt it was important that Park Avenue remain a practical residential street.

John Plunkett stated that he and his wife have lived on Park Avenue for 21 years and they have rebuilt three historic homes on the street. They spent a number of years working with the City to get the street itself rebuilt after the Olympics. Mr. Plunkett stated that he is one of the five neighbors who hired Mr. Tesch to represent them because they are deeply concerned about what has been happening on the other side of Upper Park Avenue over the last 20 years. Mr. Plunkett believed that the Land Management Code was well written for the commercial zone and the HR-2 and it balances the competing needs of commercial Main Street business versus residents on Park Avenue. For the most part it does work because most of the Main Street buildings are owned separately from the Park Avenue lots behind them. However, there are a handful of properties, one being 573 Main Street, where the owners happen to own the Park Avenue lots behind their Main Street business. What has happened over time is that for various reason exceptions were made that allowed exits from commercial buildings, which have been used as commercial entrances. He hoped this plat amendment would be an opportunity to stop that. Mr. Plunkett stated that their experience from the last two Sundance Festivals caused them the most concern when the

Claimjumper was used as a bar/nightclub. He asked the Commissioners to consider their reaction if they were home on a winter evening and after hearing a lot of commotion they open their door to find a nightclub across the street. There is an entrance with velvet rope and bouncers dressed in black with headsets, and a line of black SUVs up and down the street. Nightclub music and noise continues until the early morning hours. Mr. Plunkett was certain that if any of the Commissioners had that experience, they would hope that the Planning Commission would find a way to prevent that from happening again, particularly since it is prohibited in the zone and on their street. Mr. Plunkett clarified that the neighbors do not care what happens inside the commercial building in the commercial zone. They only want to stop it from filtering on to Park Avenue. The exit on to Park Avenue is continually used as an entrance to the commercial building and they would like the Planning Commission to insure that it is restricted to an emergency exit only as described by Code. Mr. Plunkett felt the conditions of approval suggested by Joe Tesch were useful because nothing in the application or the Staff conditions of approval would prevent this building from being used as it has been used the last few years. He pointed out that removing the addition and the doorways would put the commercial back on Main Street and keep Park Avenue residential. Mr. Plunkett commented on the encroachment issues and noted that there are two levels of encroachment. One is the lot line encroachment and the second is the underlying zone encroachment created by the commercial addition sitting in the residential zone.

Chair Pro Tem Thomas closed the public hearing.

Joe Wrona, an attorney representing the applicant, thought the Staff report was very detailed and assembled very carefully. He believed the Planning Commission should rely on the Staff report when addressing the Code and what is required.

Mr. Wrona stated that in general, the existing building with the large parking lot in back is legal. The parking lot itself is a legal non-conforming use and his client has come forward with a proposal to make that go away. It was clearly what the Park Avenue neighbors wanted and the applicant was submitting a plat amendment that accomplishes that objective. Mr. Wrona stated that on that basis alone, the Planning Commission should be excited to see the Claimjumper revitalized and the parking lot removed.

Mr. Wrona noted that someone from the public thought that Lots 2 and 3 appear to be too small for development. He stated that page 136 of the Staff report points out that both lots exceed the minimums required by Code and they can be developed.

Regarding public comment about problems that occurred during the Sundance Film Festival, Mr. Wrona remarked that the proposed plat amendment would resolve those problems. He referred to a lengthy comment that implied that the applicant was an evil person who intentionally breaks the law and can't be trusted. He pointed out that most of the violations that occurred were during the Sundance Film Festival and were violated by a temporary tenant. They were not violations by the applicant. Mr. Wrona reiterated that the application was trying to resolve the ability for violations by changing the parking lot.

Mr. Wrona stated that there has never been a Bingo Bar on Main Street as Mr. Tesch inferred. Bing, which is a very large, successful company, rented the space to hold its reception events

during the Sundance Festival. He remarked that Mr. Tesch also misread the ordinance. One of the public comments focused on page 139, Item 7 of the Staff report related to emergency access. He noted that Mr. Tesch only read a single sentence instead of the entire paragraph, which was very misleading. Mr. Wrona read the first line of the second part of Item 7 from the Staff report, "The plat amendment complies with this requirement as no access is proposed from Park Avenue, including service and delivery."

Mr. Wrona read what the Code requires starting with the second sentence of item 7, "The commercial structure must be designed to preclude any traffic generation on residential streets." He stated that this was exactly what the plat amendment proposes to do. He further read, "Any emergency access as required by the Uniform Building Code on to the HR-2 portion of the property, must be designed in such a manner as to absolutely prohibit non-emergency use. Alarms shall be installed on all emergency doors that provide access to Park Avenue." Mr. Wrona stated that there are no emergency doors in the Claimjumper building that provide access on to Park Avenue. Public comment that four doors function as emergency access on to Park Avenue is not true, and he believed Planner Astorga could confirm that. Mr. Wrona pointed out that the plat amendment has one door that goes on to Park Avenue so that the people who purchase the upper floor condominiums have parking. Because parking is a consistent problem, it is critical to have designated parking in order to sell those units. Mr. Wrona clarified that the door that goes out to those two parking spots is not an emergency access as required by the Uniform Building Code. However, it is an existing legal door in an existing legal structure and it has been there for a long time. The homeowners have lived with that for 20 years and when they purchased their property they bought into that situation.

Mr. Wrona stated that there was an attempt to recite to the Planning Commission that in 2007 a plat amendment was proposed and approved that removed a portion of the Claimjumper Building referred to as the wooden non-historic structure. He believed that representation standing alone was a misrepresentation. Mr. Wrona stated that in 2007 the prior owner of the property sought to build the property higher and add two penthouses onto the roof. That building owner also sought to expand the footprint of the building to consume the area where this wooden component of the building exists. Rather than a building with a T-shape in terms of its footprint, it had a much larger square footprint when it consumed the wooden structure. The proposal was not to remove the wooden structure, but rather to demolish it and expand the building to consume that area. Mr. Wrona stated that the improvements that were installed in 1992 and 1993 were legal and complied with the Code at the time. That is recited in the Staff report and that is what the Planning Commission should consider. Mr. Wrona clarified that the applicant was not requesting to change the building in any way. The building that is legal stays the same.

Mr. Wrona stated that a last minute attempt by Mr. Tesch to have the Planning Commission add additional conditions of approval was disarming, because this process has been going on for months. Receiving last minute information causes him to read the language carefully. After reading the language he understood why it was submitted at the last minute. Mr. Wrona remarked that Condition #6 not only requires removing the parking lot, it asks that a landscaping plan be installed. Mr. Wrona stated that over the course of the next year the applicant would be doing tenant improvements to the upper floors to sell the units in the condotel. Construction staging needs to occur and it makes more sense to stage construction in the parking lot as opposed to

Main Street. Mr. Wrona stated that the applicant recognizes that the parking lot on Park Avenue does not work for the Park Avenue and he intends to remove it. Understanding the applicant's intent, the Staff report identifies it as the mitigation.

Mr. Wrona referred to Condition #7, which addressed the width of the access. He reminded everyone that the upper floors were a condotel and in order to be marketable and profitable, the applicant relies on the upper floors to make an economically successful redevelopment of the Claimjumper. The applicant needs to develop the upper floors so he can sell the condominium units. If he cannot sell those units, the Claimjumper will continue to sit vacant for another five years.

Commissioner Strachan asked Mr. Wrona which condition of approval drafted by Staff speaks to the fact that the doors would only be used for residential use. Mr. Wrona replied that it was the easement itself. He was unsure whether it was actually addressed in the conditions of approval; however, the applicant would not be opposed if the Planning Commission wanted that specified in the conditions of approval. Mr. Wrona felt the best way to handle it legally was to specify that the easement is for the use of the condotel occupants on the upper floors.

Commissioner Strachan clarified that there were four doors in back of the Claimjumper. Mr. Wrona replied that there are four doors around the property. Only one door faces Park Avenue. The other doors direct traffic around the sides of the building on Main Street.

Mr. Wrona referred to Condition #9 and noted that a double width door already exists in the building. It is a legal use and it is necessary to function as a condotel. He anticipated that the residential units would be nightly rentals, which was the reason for having a lobby. Mr. Wrona stated that the applicant was only asking to do the same thing that all the mixed-use buildings on Main Street were allowed to do, including historic structures. Mr. Wrona clarified that the applicant was not proposing any other doors with access to Park Avenue.

Mr. Wrona noted that Condition #10 proposes a gate across the parking lot. He felt that would be a great expense to the developer and the question was when the gate would be installed. Mr. Wrona questioned whether a gate was necessary since there was an easement with that restricted use. He believed the restricted use was sufficient to handle the issue.

Mr. Wrona thought Condition #11 was redundant with what was already required by law. He believed the issue of screening would be addressed by the Building Department when building permits are issued for the upper floors. He was certain that the applicant would be required to comply with the LMC on that particular issue.

Mr. Wrona stated that the applicant was attempting to give the City what it wants and it allows the applicant to actually develop the Claimjumper. An important question was whether it was good to have the Claimjumper redeveloped, and whether it was particularly beneficial to have the parking lot removed.

Mr. Wrona read from Condition #6 in the Staff report, the second sentence, "Existing parking lot shall be removed before July 12, 2012." He believed it should read, July 12, 2013. Planner Astorga agreed that it was a typo and the correct date was July 12, 2013.

Jonathan DeGray, the project architect, addressed the access door in response to an earlier question from Commissioner Strachan. He explained that the southerly single door entrance services the kitchen. Directly north of that is the double door which was the 1993 addition. A set of stairs goes down to a landing and the doorway in that location goes into the main level commercial space. The applicant was proposing to alarm the northerly door that accesses the commercial level and the southerly door that accesses the commercial level and maintain the center doors as sole access to the residential levels.

Chair Pro Tem Thomas understood that from the double door into the lobby there would be no pedestrian connection into the HR-2. Mr. DeGray replied that there would be no pedestrian connection into the commercial level. Chair Pro Tem asked about circulation from the exterior to Main Street. Mr. DeGray stated that it would be via the alley. People would have to come out the double door, down the stairs and around through the alley to get to Main Street. Commissioner Strachan clarified that if someone went in the double door it would then rise and go into the residential unit. He asked if an elevator was being proposed. Mr. DeGray stated that an elevator was not proposed at this time. The residents would go outside and walk around to access the lobby.

Planner Astorga clarified that the north door would not enter the building. Mr. DeGray replied that it was a sidewalk that goes up the set of stairs and onto the existing sidewalk that goes out to Park Avenue. It was an existing access that the Wahso Building uses. The door is alarmed and locked from the inside.

Bill Reed, the applicant, asked if Planner Astorga understood that there was no door down to the stairs. The door he referred to was on the building and not on the stairs.

Commissioner Strachan asked if the applicant would be opposed to gating and landscaping the area on Park Avenue after construction of the Claimjumper was completed, to prevent anyone except for the residential unit owners from entering or exiting. Mr. Wrona stated that if the goal is to prevent squatters from using the access, it could be accomplished with two posts and a chain with a lock, and the residential users would have a key. He would be uncomfortable with a condition that requires a specific type of barrier. He preferred to impose as little as possible on the applicant in terms of cost. The applicant had agreed to the restriction by the easement and to the legal impediment that it could only be used by residential occupants. He was concerned about the City designing the ways to enforce that easement. Mr. Wrona had the same concerns with landscaping. The snow removal easement goes across the front of the lot along Park Avenue. If the City requires berming on that, it would run afoul of the requirements of the snow removal easement. Mr. Wrona pointed out that even though ideas are good intentions, in some cases it causes one requirement to step on another. He felt their proposal to eliminate the parking lot and restrict access to the building through an easement was sufficient to address the problems.

Chair Pro Tem Thomas agreed with the concern that once the parking lot is removed it could be replaced with a gravel surface, and people could still park on it. He suggested that the concern could be mitigated with a gate. Mr. Wrona stated that if this plat amendment is approved, they have one year to record the plat and remove the parking lot. The applicant could complete construction in

that time period. If gravel was an issue, he asked if the Planning Commission would consider sod to satisfy the landscape requirement. The applicant was willing to do something that would be attractive for Park Avenue and discourage people from parking, but he should not be required to do more than anyone else. The applicant could also post "No parking" signs.

Chair Pro Tem Thomas was not opposed to sod. Planner Astorga recommended a native cover instead of sod.

Commissioner Hontz referred to page 150 of the Staff report. In looking at the plat she was trying to insure that the lot area represented for Lot 2 and Lot 3 were adequate to meet the square footage requirements of the HR-2 zone. She noted that under Lot 3 it said 2060.9 square feet, which would be 1875 square feet as required. However, looking closer she noticed that the plat was incorrectly drawn because the 37.47 feet along the front of the Park Avenue line is not the same length as the 37.47 of the back line along Lot 1. Those lines were obviously not the same and, therefore, could not be the same length. Mr. Reed remarked that it goes to the property line, not to the easement line. Commissioner Hontz stated that if it was 37 feet to the property line, she asked if 2060 square feet excludes the shaded area of 9' x 18' x 6' x 37'. Mr. DeGray answered no. Commissioner Hontz stated that they should determine what 9' x 18' x 6' x 37' would equate to in square footage and subtract that from the calculation of the total square footage. Commissioner Hontz clarified that she was making the point that the shaded area was not buildable area for Lots 2 or 3 because it was dedicated for the purpose of providing parking and access for Lot 1. Aside from the fact that it was in a different zone, it could not be counted towards the lot area.

Planner Astorga stated that the Staff had discussed the issue. The reason for not making the easement area only part of Lot 1 was because it would not meet the minimum width requirement on the HCB. Commissioner Hontz clarified that she was asking for the total area excluding the area that could not be built, because it is dedicated to Lot 1 for the owners of the units in Lot 1. Planner Astorga calculated the area to be 1788 square feet. Commissioner Hontz pointed out that it was under 1875 square feet and therefore was not a buildable lot. She could not approve Lots 2 and 3 because they did not meet the standards of the zone. She was upset that the analysis did not represent the actual buildable lot area.

Mr. Reed stated that it was no different than an easement around any existing lot or setback line on an existing lot. Commissioner Hontz disagreed because it would be paved and it is specifically for the purpose of providing access and parking to another use in another lot in another zone. Commissioner Hontz asked where it says in the Code that this use is allowed in the HR-2 zone. She pointed out that this was not a use for the HR-2. The use was in support of the HCB. Planner Astorga stated that the HR-2A has a list of allowed conditional uses, and it allows four or fewer residential parking spaces. Commissioner Hontz clarified that parking was allowed for uses on Lots 2 and 3. Planner Astorga replied that the Code was not specific enough to make that determination of use. Commissioner Hontz was not comfortable approving uses for other zones unless the Code specifically allows accessory support in one zone for another zone. If she could find that language in the Code, she would accept it.

Commissioner Hontz agreed that the Claimjumper in its blighted state hurts Main Street and she would like to see the improvements. She was disappointed that it had been left in its blighted

condition for so long. She would like the ability to upgrade the Claimjumper, but she was uncomfortable shifting the burden of zoning issues to become enforcement. It puts the burden on the neighbors and all the taxpayers. Zoning issues should not be resolved through complaints and phone calls to the Police or Code Enforcement. Commissioner Hontz thought most of the conditions of approval were workable and with some editing she would have been comfortable approving this plat amendment. However, knowing that the two lots were not standard, she would not be voting to forward a positive recommendation to the City Council.

Planner Whetstone stated that if they only exclude the front part, which is the parking easement, it puts the area at 1898 square feet. She pointed out that they could not build on the pathway because it is the setback area, and that is no different than the 10-foot required snow storage easement on every lot. Planner Whetstone clarified that because it was an easement, not a property line, it would not impact the lot size. Planner Astorga stated that by definition the Staff finds that it meets the minimum lot size. Commissioner Hontz understood their point, but she disagreed.

Commissioner Worel asked if easements were normally calculated into the lot size. Planner Whetstone answered yes, because it is part of the lot. Easements are always part of the square footage of the lot. Commissioner Worel asked about the wooden attachment to the back of the Claimjumper and whether the original back wall of the Claimjumper was still intact. She was told that the original wall still existed. The wooden attachment was added on as a staircase as egress to the building. It has since been gutted out and currently it is just a shell.

Commissioner Strachan agreed with Commissioner Hontz. He did not believe it was possible to build a feasible unit on Lots 2 and 3 as drawn on the proposed plat amendment. Even if the lots could be developed, he agreed with Commissioner Hontz that the conditions suggested by Mr. Tesch should be imposed with some editing. However, as the applicant pointed out, receiving new information at the last minute without having time to review it is never good. Commission Strachan thought Conditions 6, 7, 9 and 10 were reasonable. He suggested that the applicant may want time to decide whether or not those conditions would be deal breakers.

Commissioner Hontz read the Code and disagreed with the use interpretation that parking and access would be allowed on Lots 2 and 3 for the building in the HCB zone. She believed that interpretation was a stretch of the Land Management Code because the allowed use was intended to be for uses developed in that same zone.

Assistant City Attorney McLean clarified that where it identified the lot line to be removed was actually the zone line. That should have been marked zone line to indicate that everything from the lot line to be removed over to the other one was actually HR-2. Everything to the east is HCB. Ms. McLean pointed out that they were not talking about a different zone because that portion was within the HR-2 zone. Planner Hontz appreciated that clarification.

Planner Astorga stated that if the Planning Commission chooses to forward a positive recommendation to the City Council with physical improvements, it would have to be in compliance with the Historic District Design Guidelines. That also included landscaping.

Mr. Wrona responded to Commissioner Strachan's comment regarding the importance of Conditions 6, 7, 9 and 10. Mr. Wrona was comfortable with Condition #6 because it only requires landscape approval by the City. It did not specify what type of landscaping. Commissioner Strachan clarified that landscaping would not be required until after construction was completed. Mr. Wrona stated that Condition #7 was undesirable to the applicant. Commissioner Strachan asked if the applicant would be comfortable with the condition if they struck the language, "and shall be a maximum of four feet wide." He revised the Condition to read, "The easement from the two parking spaces on HR-2 to the HCB shall be for use by the occupants of the residential units. Mr. Wrona was comfortable with Condition 7 as revised because that was always the applicant's intention. Mr. Wrona suggested modifying the language in Condition #9 to replace, "emergency access" with "private access", and to remove the word "alarms". The idea is to have one door that allows access to the condotel occupants. Commissioner Strachan further revised the condition to say, "All other exits must be emergency exits only." Mr. Wrona found the revised language acceptable. Regarding Condition #10, Mr. Wrona reiterated his concern about being too specific about a gate. He preferred that the condition be structured to require a physical barrier controlled by the licensees, without being too specific as to the type of barrier. The applicant would like the flexibility to at least start with something less than a gate.

Commissioner Strachan believed that could be done at the plat amendment stage. This would come back to the Planning Commission for other approvals and the issue could be addressed at that time. He believed at some point a gate would be necessary and he suggested that the applicant design it now. Mr. Wrona agreed. However, the person responsible for the gate would be the developer of the upper floors and he expected that it would be an upscale gate. Mr. Wrona preferred that this applicant be allowed to take it in steps. He believed that requiring a locking device without specifying a gate would address the issue of commercial squatters using those parking spaces. At the time of building permit or certificate of occupancy for the condotel units, the City could impose a controlled gate and the applicant would already have it in his design.

Commissioner Strachan encouraged this applicant to design the gate now because it would not come back to the Planning Commission and they were about to tell the Staff what type of gate they would like to see. This was the applicant's opportunity to have input on the type of gate they would like. The Planning Commission could approve or disapprove the applicant's choice, but it was better than letting the Planning Commission make the decision without input. Mr. Wrona explained that the applicant would like some flexibility to determine what would work best and what would be most marketable to a user. He preferred to revise the condition to state that there will be a physical controlled access with a locking device. Chair Pro Tem Thomas suggested, "...A lockable controlled access prohibiting parking for vehicles". Mr. Wrona was satisfied with that language.

Assistant City Attorney McLean remarked that the condition of approval should reflect what they were trying to prohibit. She preferred language similar to what Commission Thomas had proposed. The purpose is clear and the applicant must do whatever is necessary to meet that purpose. Condition #10 was revised to read, "The two parking spaces in the HR-2 zone shall have lockable controlled access prohibiting parking to vehicle traffic beyond those two spaces."

Chair Pro Tem Thomas asked Mr. Wrona if the applicant was comfortable with the conditions proposed by Mr. Tesch with the modifications to Conditions, 6, 7, 9 and 10.

To address the concerns with the buildable square footage of Lots 2 and 3, Assistant City Attorney McLean stated that the two lots could be conditioned to require the setbacks to be from the easement lines. They could also condition the type of material in the exterior access easement.

Commissioner Hontz felt it was a conundrum. She wanted to see the Claimjumper succeed and she wanted smaller houses in Old Town. However, she believed this proposal cheats the system and tries to get around the Code.

Planner Astorga pointed out that if the easement changes from 6' to 4' in width, they would gain 37' on one side. He was unsure where the proposed lot line lines up with the actual building in terms of the encroachment, but there was the possibility of shifting the line further back to meet the minimum lot size. He asked if the Commissioners were interested in asking Mr. DeGray and Evergreen Engineering to pursue that analysis to see if it was possible.

Commissioner Hontz stated that she still had a problem with the use, but if the line could be shifted it might be a better result for everyone. Commissioner Hontz never wanted to see another situation where something undesirable on Main Street pushes the Code.

Chair Pro Tem Thomas believed that modifications to the parking would help mitigate the issues related to neighborhood disturbances on Park Avenue. Commissioner Hontz concurred. The alarm doors were also a big factor.

Commissioner Worel pointed out that smaller homes on Lots 2 and 3 would be more compatible with the neighborhood. Chair Pro Tem Thomas was not bothered by lot sizes smaller than 1875 square feet.

Mr. Wrona noted that Mr. DeGray had already done preliminary designs for homes on Lot 2 and Lot 3, and each home was approximately 2,000 square feet.

Commissioner Strachan stated that the concern was that the use of Lot 1 was both commercial and residential. He suggested that they tie the easement to residential use only to address that concern. Commissioner Worel favored that suggestion because she had concerns about setting precedent for allowing something against the Code in one zone for the benefit of another zone. She could support if it was done only for the residential. Planner Whetstone pointed out that if the upper floors ever become commercial, parking would not be allowed.

Commissioner Strachan was not comfortable re-drafting conditions on the spot and suggested that the item be continued to allow Staff time to properly draft the conditions and for the Planning Commission to review them. The Commissioners concurred.

Commissioner Strachan summarized the changes made to the conditions of approval this evening.

Conditions 1-5 remained the same as written in the Staff report. Conditions 6-11 were revised from the conditions submitted by Joe Tesch.

Condition 6 - Add sentence, "The landscaping requirement would not be imposed until after renovation is complete".

Condition 7 - Delete all language after the word "units". The revised condition would read, "The easement from the two parking spaces on the HR-2 to the HCB shall be for the use by the occupants of the residential units only.

Condition 8 was not in front of the Planning Commission for purposes of the plat amendment and did not apply.

Condition 9 – Revised language would read, "Only one private access door may exist from the HCB District to the HR-2 lots. All other exits must be for emergency access only."

Condition 10 – Revised language would read, "The two parking spaces in the HR-2 zone shall be lockable, controlled access prohibiting parking and vehicle traffic beyond those spaces."

Condition 11 - Language was stricken in its entirety.

Condition 12 would become Condition 11. The language was the same in both the Staff report and Mr. Tech's letter.

A new Condition #12, would read, "The parking easement off Park Avenue would be for the use of the residential units in Lot 1 only and noted on the plat."

Planner Whetstone thought they should add language that makes it perfectly clear that non-emergency access is absolutely prohibited and an alarm shall be installed on emergency doors. It would be on the plat and would transfer to title reports. The condition would reiterate what is already in the Code.

MOTION: Commissioner Strachan moved to CONTINUE the plat amendment for 573 Main Street, the Claimjumper, to July 11, 2012. Commissioner Worel seconded the motion.

VOTE: The Motion passed unanimously.

The Park City Planning Commission meeting adjourned at 8:40 p.m.

Approved by Planning Commission: _____

REGULAR AGENDA

Planning Commission Staff Report



Subject: 916 Empire Avenue
Project #: PL-12-01533
Author: Kirsten Whetstone, MS, AICP
Date: July 11, 2012
Type of Item: Administrative – Steep Slope Conditional Use Permit

Summary Recommendations

Staff recommends the Planning Commission review the application for a Steep Slope Conditional Use Permit at 916 Empire Avenue and conduct a public hearing. Staff has prepared findings of fact, conclusions of law, and conditions of approval for the Commission's consideration.

Description

Applicant/Owner: Chuck Heath, Owner
Architect: Craig Kitterman, Architect
Location: 916 Empire Avenue
Zoning: Historic Residential (HR-1)
Adjacent Land Uses: Residential
Reason for Review: Construction of structures with greater than 1,000 square feet of floor area and located on a steep slope (30% or greater) requires a Conditional Use Permit

Proposal

This application is a request for a Steep Slope Conditional Use Permit for a new single family home containing 2,303 square feet (including basement) on a vacant 1,875 square foot lot located 916 Empire Avenue. The total floor area exceeds 1,000 square feet and the construction is proposed on a slope of 30%.

Background

On April 23, 2012, the City received an application for a Conditional Use Permit (CUP) for "Construction on a Steep Slope" at 916 Empire Avenue. The application was deemed complete on June 18, 2012. The property is located in the Historic Residential (HR-1) District.

This application is a request for a Conditional Use Permit for construction of a new single family dwelling containing 2,303 square feet (including the basement) on a single "Old Town" lot. The property is described as Lot 28, Block 15 of the Snyder's Addition to the Park City Survey. Because the total proposed structure is greater than 1,000 square feet, and the slope within the first 30' of the lot is thirty percent (30%), the applicant is required to file a Conditional Use Permit application for review by the Planning Commission, pursuant to LMC § 15-2.2-6 prior to issuance of a building

permit. The lot has an average slope, across the entire depth, of sixteen percent (16%). The lot is a vacant, infill developable lot with no existing vegetation present. There are existing wooden and concrete stairs located partially on the lot, shared with 920 Empire (Lot 27, Block 15). An encroachment agreement and access easement will need to be recorded at Summit County prior to issuance of a building permit, unless these encroachments are removed and alternative access is provided for the house at 920 Empire Avenue, consistent with an approved HDDR application for that structure. This applicant is also the owner of 920 Empire Avenue.

There are existing six (6') foot wide Right of Way shown on 920 Empire (Lot 27) and on 916 Empire (Lot 28). The ROW only extends to the rear lot line and does not extend to the Lots behind. The ROW does not connect to a second public street or to another ROW on another lot. No construction may occur in the ROW unless said ROW are removed or vacated. If not vacated, the house design, and north side setback, will have to be modified to accommodate the ROW as a condition precedent to issuance of a building permit.

This property is required to have separate utility services, independent from 920 Empire Avenue, for water, sewer, etc. Stubbing of these utilities is subject to a Utility plan to be approved by the City Engineer and applicable utility providers, such as SBWRD. The stubs for new services need to be installed prior to the final paving of Empire Avenue, unless otherwise allowed by the City Engineer.

A Historic District Design Review (HDDR) application is being reviewed concurrently for compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009. An initial review of the HDDR application has occurred, however staff has not made a final determination of compliance with the Design Guidelines with regards to architectural detailing, e.g. materials, windows, doors, trim, etc. The applicant has provided several iterations of revisions.

Purpose

The purpose of the Historic Residential (HR-I) District is to:

- A. preserve present land Uses and character of the Historic residential Areas of Park City,
- B. encourage the preservation of Historic Structures,
- C. encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,
- D. encourage single family Development on combinations of 25' x 75' Historic Lots,
- E. define Development parameters that are consistent with the General Plan policies for the Historic core, and
- F. establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

Analysis

The proposed house contains a total of 2,303 square feet, including the basement and a single car garage. The proposed building footprint is 844 square feet. The house complies with all setbacks, building footprint, and building height requirements of the

HR-1 zone. The third story includes horizontal stepping of fifteen feet (15') which is greater than the required ten feet (10') of stepping. See below for description of each floor:

Floor	Proposed floor area
Main	844 square feet
Basement	844 square feet
Upper	615 square feet
Overall area	2,303 square feet

Staff reviewed the plans and made the following LMC related findings:

Requirement	LMC Requirement	Proposed
Lot Size	Minimum of 1,875 sf	1,875 sf, <u>complies.</u>
Building Footprint	844 square feet (based on lot area) <u>maximum</u>	844 square feet, <u>complies.</u>
Front and Rear Yard	10 feet minimum (20 feet total)	10 feet (front), <u>complies.</u> 10 feet (rear), <u>complies.</u>
Side Yard	3 feet minimum (6 feet total)	3 feet on each side, <u>complies.</u>
Height	27 feet above existing grade, <u>maximum.</u>	Various heights all at or less than 27 feet, <u>complies.</u>
Number of stories	A structure may have a maximum of three (3) stories.	3 stories, <u>complies.</u>
Final grade	Final grade must be within four (4) vertical feet of existing grade around the periphery of the structure.	36" (3 feet) or less, <u>complies.</u>
Vertical articulation	A ten foot (10') minimum horizontal step in the downhill façade is required for a for third story	The upper floor contains a fifteen (15') foot horizontal step back from the lower two levels. <u>complies.</u>
Roof Pitch	Roof pitch must be between 7:12 and 12:12 for primary roofs. Non-primary roofs may be less than 7:12.	7:12 for all primary roofs with a 5:12 pitch for the rear roof form. <u>complies.</u>
Parking	Two (2) off-street parking spaces required	One (1) space within a single car garage and one uncovered space on the driveway, within the lot area, compliant with required dimensions. <u>complies.</u>

LMC § 15-2.2-6 provides for development on steep sloping lots (30% or greater) if the structure contains more than one thousand square feet (1,000 sq. ft.) of floor area, including the garage, within the HR-1 District, subject to the following criteria:

Criteria 1: Location of Development.

Development is located and designed to reduce visual and environmental impacts of the Structure. **No unmitigated impacts.**

The proposed single family house is located on the standard “Old Town” development lot in a manner that reduces the visual and environmental impacts of the Structure, to the degree possible on a 25’ by 75’ lot. The downhill lot was previously disturbed for prior construction of a wooden parking platform, therefore excavation is minimized. The parking platform was removed this past Spring. The main level is set below the grade of the street to minimize visual impacts on the Streetscape (Exhibit B). Excavation is minimized due to the existing topography. There is no vegetation present on this infill lot.

Criteria 2: Visual Analysis.

The Applicant must provide the Planning Department with a visual analysis of the project from key Vantage Points to determine potential impacts of the project and identify potential for screening, slope stabilization, erosion mitigation, vegetation protection, and other items. **No unmitigated impacts.**

The applicant submitted a visual analysis, including a cross valley view, streetscape and photographs showing a contextual analysis of visual impacts (Exhibit B). The proposed structure cannot be seen from the key vantage points as indicated in the LMC Section 15-15-1.283, with the exception of a cross canyon view. The cross canyon view contains a back drop of two (2) and three (3) story houses and a large condominium building. Visual impacts of this proposed house are minimized by the presence of larger buildings around it and setting it lower than the street level and providing a greater horizontal step in roofline and massing. This is an infill site that was previously developed with a wooden parking platform. There is no vegetation on this lot. The visual analysis and streetscape indicate that the proposed design is visually compatible with the neighborhood and impacts are mitigated.

Criteria 3: Access.

Access points and driveways must be designed to minimize Grading of the natural topography and to reduce overall Building scale. Common driveways and Parking Areas, and side Access to garages are strongly encouraged, where feasible. **No unmitigated impacts.**

The proposed design incorporates a driveway from Empire Avenue. Due to the previous construction/excavation, the 30% slope of the lot at the street, and the 25’ lot width, side access is not feasible. The proposed driveway has a maximum slope of 14% with sections at 5% and 10%. This slope is due to setting the house lower into the lot to be compatible with the historic structure to the north and to accomplish the required 7:12 roof pitch. The driveway is designed to minimize Grading of the natural topography and to reduce overall Building scale.

Criteria 4: Terracing.

The project may include terraced retaining Structures if necessary to regain Natural Grade. **No unmitigated impacts.**

The lot has a steeper grade at the front becoming relatively gentle at the rear. Overall, the slope is 16%. The only retaining walls that are proposed are on the sides at the front portion of the lot to regain Natural Grade and to create the driveway, front porch, and landscaped area. New retaining walls will not exceed six feet (6') in height, with the majority of the walls less than four feet (4'). There is an existing retaining wall along the front lot line that will be removed. There is an existing railroad tie retaining wall on the south property line associated with the non-historic house to the south. This wall will remain as it is not on this property and retains the walkway and access to the adjacent house to the south. The lot to the north has a similar slope as the subject lot and retaining between them is not necessary. There exists a set of shared concrete steps in the common side yards between the subject lot and 920 Empire to the north. The lot to the north is also owned by this applicant. These stairs may remain if an encroachment agreement and access easement are recorded, or if removed and alternative access is provided to 920 Empire in conjunction with an approved HDDR application.

Criteria 5: Building Location.

Buildings, access, and infrastructure must be located to minimize cut and fill that would alter the perceived natural topography of the Site. The Site design and Building Footprint must coordinate with adjacent properties to maximize opportunities for open Areas and preservation of natural vegetation, to minimize driveway and Parking Areas, and provide variation of the Front Yard. **No unmitigated impacts.**

The building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography, which has already been modified by previous construction and excavation. The house is proposed on the down- hill side of Empire Avenue approximately five feet (5') below the street. There is no existing vegetation on the lot. The driveway width and length are minimized (12' by 18') to the greatest extent possible to accomplish the required legal parking space on the driveway entirely on the property while connecting the driveway to the paved street. A front yard area adjacent to the driveway is proposed to be properly landscaped.

Criteria 6: Building Form and Scale.

Where Building masses orient against the Lot's existing contours, the Structures must be stepped with the Grade and broken into a series of individual smaller components that are Compatible with the District. Low profile Buildings that orient with existing contours are strongly encouraged. The garage must be subordinate in design to the main Building. In order to decrease the perceived bulk of the Main Building, the Planning Commission may require a garage separate from the main Structure or no garage. **No unmitigated impacts.**

The house steps with the grade and is broken into a series of smaller components that are compatible with the District. The garage is subordinate in design in that it is partially below the street and further mitigated with a second story deck that extends ten feet

(10') out from the garage face decreasing the visibility of the garage and decreasing the perceived bulk of the Main Building.

Criteria 7: Setbacks.

The Planning Commission may require an increase in one or more Setbacks to minimize the creation of a "wall effect" along the Street front and/or the Rear Lot Line. The Setback variation will be a function of the Site constraints, proposed Building scale, and Setbacks on adjacent Structures. **No unmitigated impacts.**

The garage portion of the house is setback 18' to accommodate the code required parking space, placing it over 20' back from the face of the historic structure to the north and 8' back from the non-historic structure to the south. No wall effect is created with the proposed design.

Criteria 8: Dwelling Volume.

The maximum volume of any Structure is a function of the Lot size, Building Height, Setbacks, and provisions set forth in this Chapter. The Planning Commission may further limit the volume of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing Structures. **No unmitigated impacts.**

The proposed house is both horizontally and vertically articulated and broken into compatible massing components. The design includes setback variations and lower building heights for portions of the structure. The proposed massing and architectural design components are compatible with both the volume and massing of single family dwellings in the area. The design minimizes the visual mass and mitigates the differences in scale between the proposed house and existing surrounding structures.

Criteria 9: Building Height (Steep Slope).

The maximum Building Height in the HR-1 District is twenty-seven feet (27'). The Planning Commission may require a reduction in Building Height for all, or portions, of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing residential Structures. **No unmitigated impacts.**

The proposed structure meets the twenty-seven feet (27') maximum building height requirement measured from existing grade. Portions of the house are less than 27' in height. The tallest portion of the house (27') is midway back from the front and the roof height at this location is not visually apparent from the front, back, or sides of the house. The proposed height steps down from the taller house to the south and steps up from the shorter house to the north and the differences in scale between the proposed Structure and existing Structures are mitigated.

Process

Approval of this application constitutes Final Action that may be appealed to the City Council following appeal procedures found in LMC § 15-1-18. Approval of the Historic District Design Review application is noticed separately and is a condition of building permit issuance.

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time other than standards items that have to be addressed by revisions and conditions of approval.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published in the Park Record in accordance with requirements of the LMC.

Public Input

Staff received a call from an adjacent property with questions about the proposal. The property owner indicated he would stop by the Planning Department to review the plans.

Alternatives

- The Planning Commission may approve the Conditional Use Permit for 916 Empire Avenue as conditioned or amended, or
- The Planning Commission may deny the Conditional Use Permit for 916 Empire Avenue and direct staff to make Findings for this decision, or
- The Planning Commission may request specific additional information and may continue the discussion to a date certain (August 8th).

Significant Impacts

There are no significant fiscal or environmental impacts from this application. The lot is an existing infill residential lot that contains no vegetation. A house on this lot would be a significant improvement over the existing situation.

Consequences of not taking the Suggested Recommendation

The construction as proposed could not occur. The applicant would have to revise the plans.

Recommendation

Staff recommends the Planning Commission review the application for a Steep Slope Conditional Use Permit at 916 Empire Avenue and conduct a public hearing. Staff has prepared findings of fact, conclusions of law, and conditions of approval for the Commission's consideration.

Findings of Fact:

1. The property is located at 916 Empire Avenue. The lot is vacant.
2. The property is within the Historic Residential (HR-1) District and meets the purpose of the zone.
3. The property is described as Lot 28, Block 15 of the Snyder's Addition to the Park City Survey.
4. The Lot area is 1,875 square feet.

5. A Historic District Design Review (HDDR) application is currently being reviewed by staff for compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009.
6. This is an infill "Old Town" lot. There is no existing vegetation on this lot. A previous, non-historic wooden parking platform was demolished and removed in 2012.
7. There is an existing significant historic structure, in poor condition, located on the adjacent lot to the north. A wooden walkway and concrete steps located on the adjacent property (920 Empire) encroach onto this lot. This adjacent property is also owned by this applicant and the shared stairs will remain as they are, reconstructed to maintain shared access along the shared lot line with 920 Empire, or removed if alternative access for 920 Empire is approved in conjunction with an approved HDDR application for 920 Empire Avenue.
8. There is an existing six (6') foot wide Right of Way shown on the south property line of 920 Empire (Lot 27) and on the north property line of 916 Empire (Lot 28). These ROW are reflected on the title report. The ROW only extends to the rear lot lines and do not extend to the Lots behind. The ROW do not connect to a second public street or to another ROW on any other lot. Additionally, these ROW are located on Lots 27 and 28 "together with", not separate from the Lots as a typical ROW would be. No construction may occur on the ROW unless said ROW are removed or vacated. If not vacated, the house design, and north side setback, will have to be modified to accommodate the ROW.
9. The proposal consists of a single family dwelling of 2,303 square feet, including the basement and single car garage. A second code required parking space is proposed on the driveway in front of the garage on the property. The driveway will be a maximum of 12' in width.
10. An overall building footprint of 844 square feet is proposed. The maximum allowed footprint for this lot is 844 square feet.
11. The proposed home includes three (3) stories. The third story steps back from the lower stories by fifteen feet (15').
12. The applicant submitted a visual analysis, cross valley views and a streetscape showing a contextual analysis of visual impacts.
13. Retaining is necessary around the home on the upper, steeper portion of the lot. There will be no free-standing retaining walls that exceed six feet in height with the majority of retaining walls proposed at 4' (four) feet or less.
14. The building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography. There is no existing vegetation on the lot.
15. The site design, stepping of the building mass, increased horizontal articulation, and decrease in the allowed difference between the existing and final grade mitigates impacts of construction on the 30% slope areas.
16. The design includes setback variations and lower building heights for portions of the structure.
17. The proposed massing and architectural design components are compatible with both the volume and massing of other single family dwellings in the area. No wall effect is created with adjacent structures.
18. The proposed structure meets the twenty-seven feet (27') maximum building height requirement measured from existing grade. Portions of the house are less than 27' in height.

19. This property is required to have separate utility services, independent from 920 Empire Avenue, for water, sewer, etc. Stubbing of these utilities is subject to a Utility plan to be approved by the City Engineer and applicable utility providers, such as SBWRD. Empire Avenue is currently being reconstructed and will be paved when the final project is complete. Utility stubs put in after the final paving of Empire would require a paving patch.
20. The findings in the Analysis section of this report are incorporated herein.
21. The applicant stipulates to the conditions of approval.

Conclusions of Law:

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.2-6(B).
2. The CUP, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval:

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. The CMP shall include language regarding the method of protecting the historic house to the north from damage.
3. A final utility plan, including a drainage plan, for utility installation, public improvements, and storm drainage, shall be submitted with the building permit submittal and shall be reviewed and approved by the City Engineer and utility providers, including Snyderville Basin Water Reclamation District, prior to issuance of a building permit.
4. Separate utility service is required for 916 Empire Avenue; services may not be shared with 920 Empire Avenue.
5. New services shall be stubbed into 916 Empire Avenue prior to the final paving of the Empire Avenue construction project, unless otherwise allowed by the City Engineer.
6. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
7. A final landscape plan shall be submitted for review and approval by the City Planning Department, prior to building permit issuance.
8. No building permits shall be issued for this project unless and until the design is reviewed and approved by the Planning Department staff for compliance with this Conditional Use Permit and the 2009 Design Guidelines for Historic Districts and Historic Sites.
9. As part of the building permit review process, the applicant shall submit a certified topographical survey of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges to confirm that the building complies with all height restrictions and that the driveway complies with the required slope restrictions.
10. If required by the Chief Building official based on a review of the soils and

geotechnical report submitted with the building permit, the applicant shall submit a detailed shoring plan prior to the issue of a building permit. If required by the Chief Building official, the shoring plan shall include calculations that have been prepared, stamped, and signed by a licensed structural engineer. The shoring plan shall take into consideration protection of the historic structure to the north and existing retaining wall on the south property line.

11. This approval will expire on July 11, 2013, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval has been requested in writing prior to the expiration date and is granted by the Planning Commission.
12. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission, subject to additional changes made during the Historic District Design Review.
13. All retaining walls within any of the setback areas shall not exceed more than six feet in height measured from final grade.
14. An access easement for the wooden walkway and concrete stairs shall be recorded at Summit County prior to issuance of a building permit, unless these encroachments are removed and alternative access is provided to the house at 920 Empire Avenue, consistent with an approved HDDR application for that structure.
15. Modified 13-D residential fire sprinklers are required for all new structures on the lot.
16. All exterior lighting, on porches, garage doors, entryways, etc. shall be shielded to prevent glare onto adjacent property and public rights-of-way. Light trespass into the night sky is prohibited.
17. No construction may occur on the six foot (6') ROW area unless said ROW areas are removed or vacated. If not vacated, the house design, and north side setback, will have to be modified to accommodate the ROW as a condition precedent to issuance of a building permit.

Exhibits

Exhibit A- Plans (existing conditions, site plan, elevations, floor plans)

Exhibit B- Visual Analysis and Streetscape

Exhibit C- Photographs

PRELIMINARY DRAWINGS ONLY
NOT RELEASED FOR CONSTRUCTION

LANDSCAPE PLAN
SCALE: 1/4" = 1'-0"

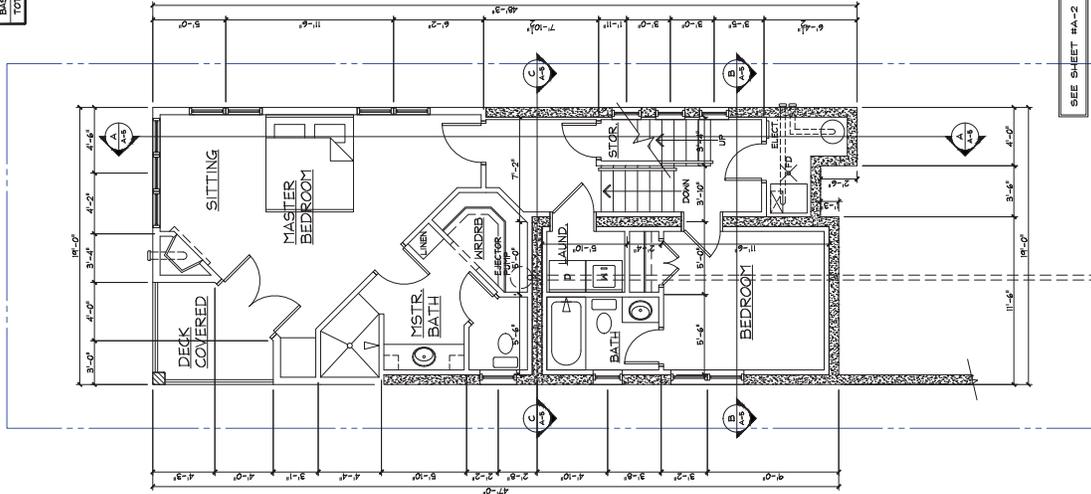


IRRIGATION SYSTEM TO BE DRIP SYSTEM



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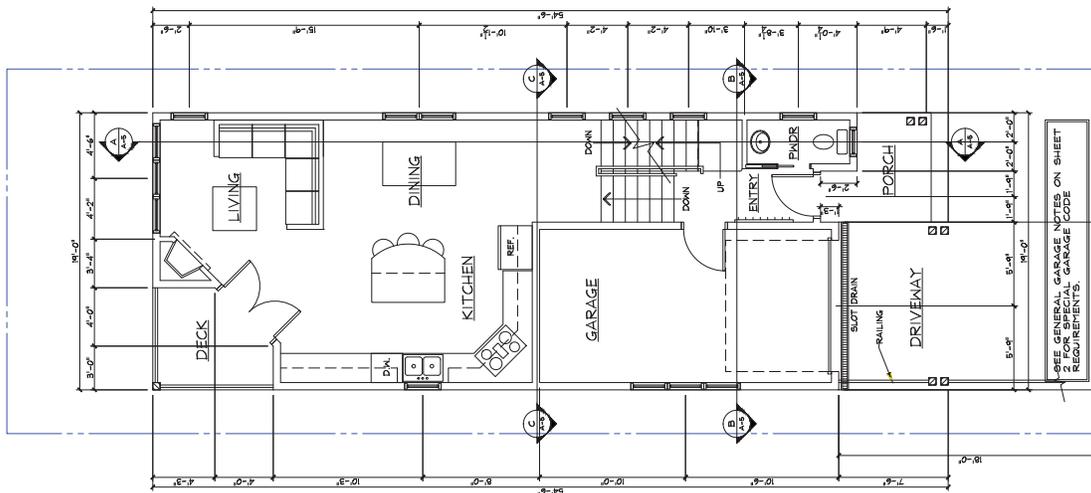
SQUARE FOOTAGE	
CEILING	644 SQ. FT.
MAIN	644 SQ. FT.
UPPER	615 SQ. FT.
BASEMENT	644 SQ. FT.
TOTAL	2,507 SQ. FT.



SEE SHEET #A-2 FOR ADD. NOTES

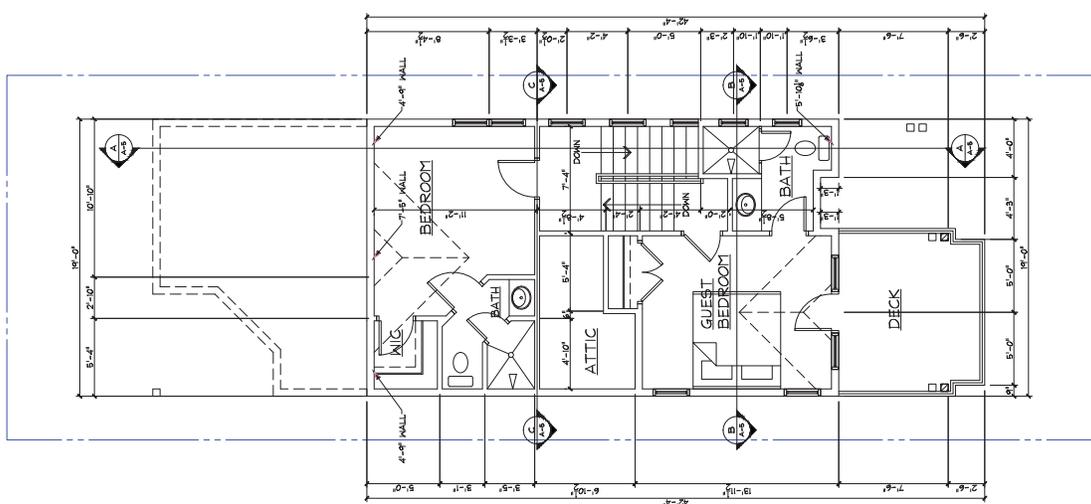
PRELIMINARY DRAWINGS ONLY
 NOT RELEASED FOR CONSTRUCTION

BASEMENT FLOOR PLAN
 SCALE: 1/4"=1'-0" 844 #

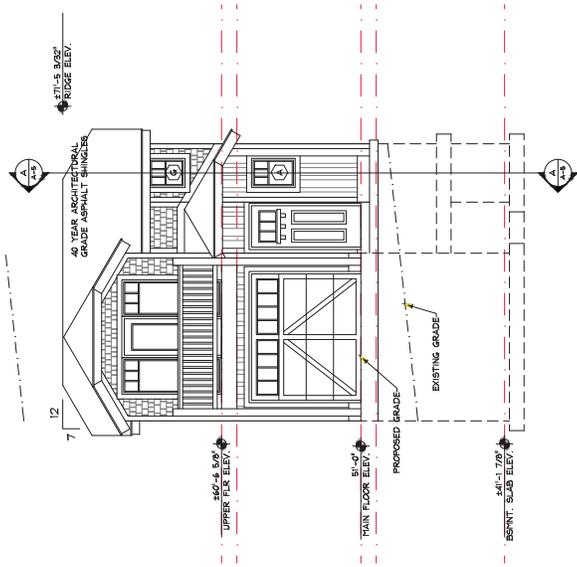


SEE GENERAL GARAGE NOTES ON SHEET
 REQUIREMENTS.

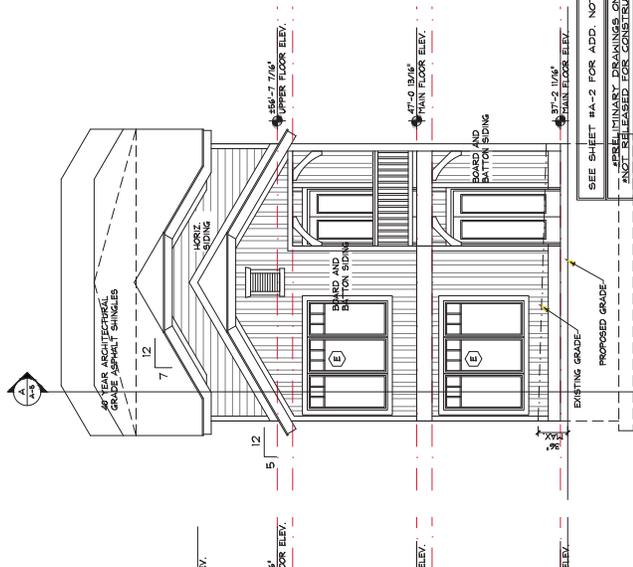
MAIN FLOOR PLAN
 SCALE: 1/4"=1'-0" 844 #



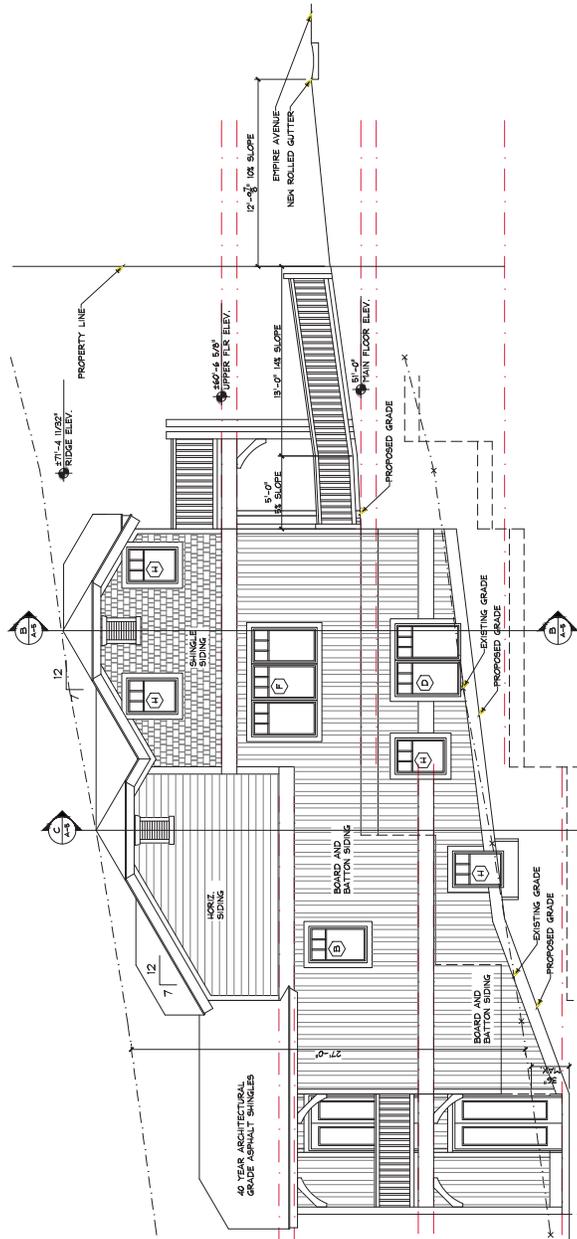
UPPER FLOOR PLAN
 SCALE: 1/4"=1'-0" 615 #



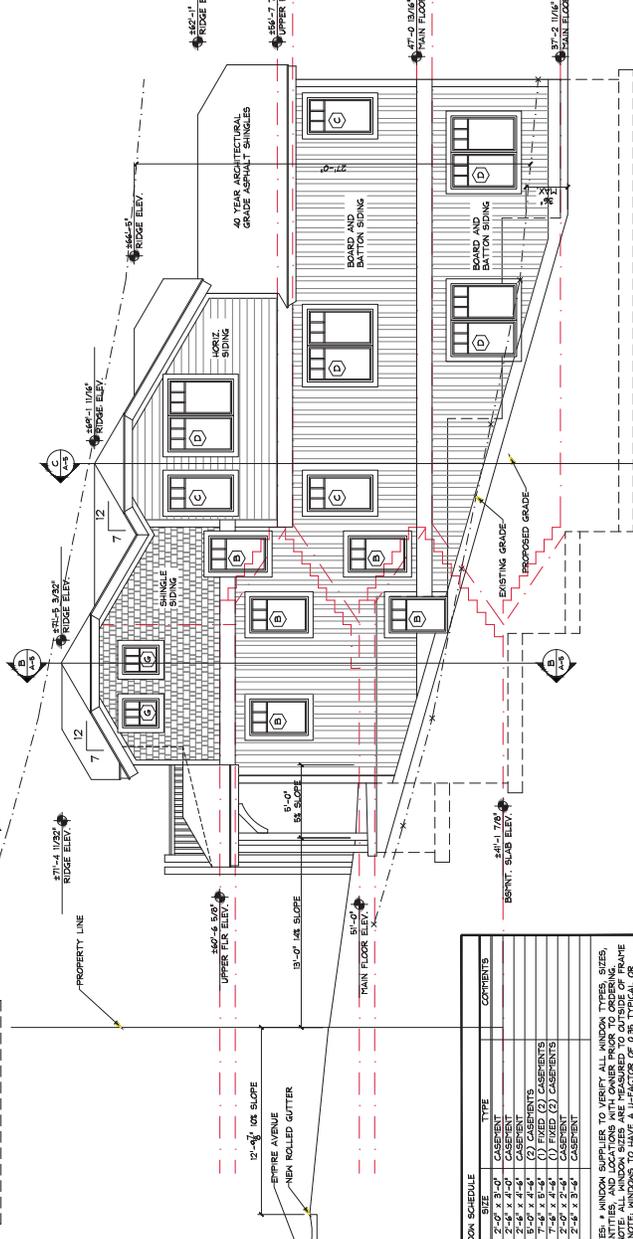
FRONT ELEVATION
SCALE: 1/4"=1'-0"



REAR ELEVATION
SCALE: 1/4"=1'-0"



LEFT ELEVATION
SCALE: 1/4"=1'-0"



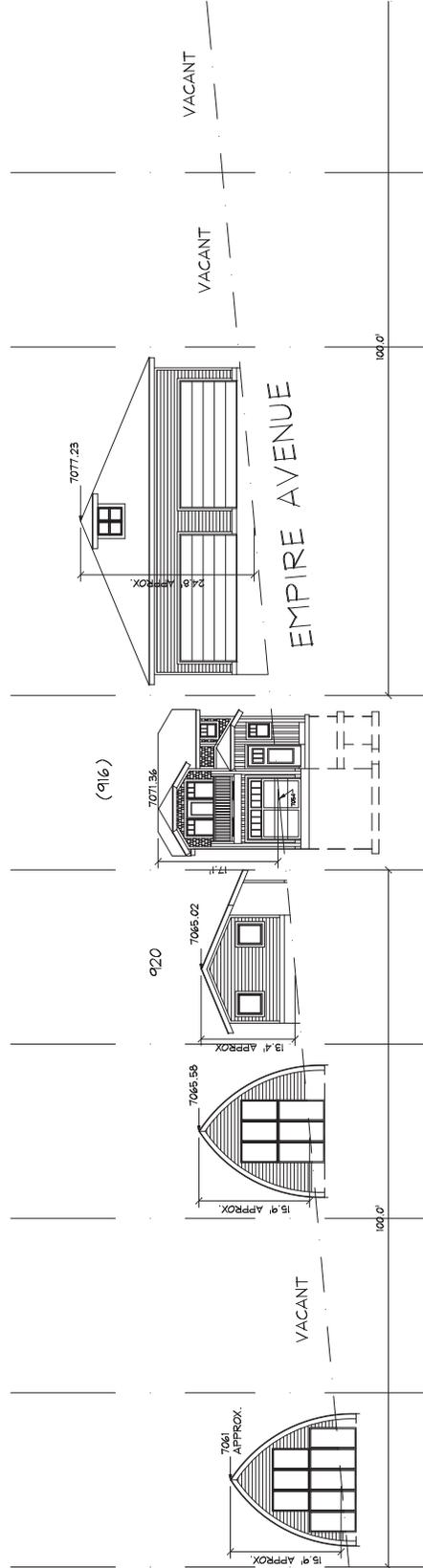
RIGHT ELEVATION
SCALE: 1/4"=1'-0"

WINDOW SCHEDULE	SIZE	TYPE	COMMENTS
A	2'-0" x 3'-0"	CASEMENT	
B	2'-4" x 4'-0"	CASEMENT	
C	2'-4" x 4'-4"	CASEMENT	
D	2'-4" x 5'-4"	(1) FIXED (2) CASEMENTS	
E	2'-0" x 2'-4"	CASEMENT	
F	2'-4" x 3'-4"	CASEMENT	

1. WINDOW LOCATIONS TO MATCH ALL WINDOW TYPES, UNLESS NOTED OTHERWISE. LOCATIONS NOT COVERED SHOULD BE ORDERED AS NOTED.
2. NOTE: ALL WINDOW SIZES ARE MEASURED TO OUTSIDE OF FRAME.
3. NOTE: ALL WINDOWS TO HAVE A U-FACTOR OF 0.28 TYPICAL OR BETTER.

EXHIBIT B

PRELIMINARY DRAWINGS ONLY
NOT RELEASED FOR CONSTRUCTION



EMPIRE AVENUE
STREETSCAPE

SCALE: 1/8" = 1'-0"







Monday, April 16, 2012
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New Section I Page 1



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Planning Commission Staff Report



Application #: PL-12-01550
Subject: 429 Woodside Ave
Author: Kirsten Whetstone, MS, AICP
Date: July 11, 2012
Type of Item: Administrative – Plat Amendment

Summary Recommendations

Staff recommends the Planning Commission hold a public hearing for the 429 Woodside Avenue plat amendment and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law, and conditions of approval as found in the draft ordinance.

Description

Applicant: Steven Koch (owner), represented by David White (architect)
Location: 429 Woodside Avenue
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Residential single family, condominiums, open space, ski runs
Reason for Review: Plat amendments require Planning Commission review and City Council action

Proposal

This is a request to amend the Elder Park Subdivision to combine Lot B of the Elder Park Subdivision with a 6,853 sf adjacent metes and bounds described rear Parcel. The property is located within Block 29 of the Park City Survey. The Parcel is a vacant, undeveloped, land locked property. Both parcels are zoned Historic Residential (HR-1) and under common ownership.

Purpose

The purpose of the plat amendment is to combine a remnant, landlocked rear parcel with an adjacent parcel (Parcel B of the Elder Subdivision) having frontage on Woodside Avenue. The land is owned in common and the owner desires to remove the common lot line in order to consolidate his property. The lot combination allows improvements to the existing house, such as a deeper patio, hot tub, stairs, decks, and a revised entry way. In addition, the owner has indicated that in the future he would like to construct a detached, accessory structure for the purpose of ski access, ski storage, ski preparation, and other uses that would be accessory to the main house at 429 Woodside. As conditioned, any accessory structure on the rear parcel, which is the equivalent of 3.65 "Old Town" lots, is restricted to a 660 sq. ft. footprint to fit within a platted 804 square foot building pad located directly behind the existing house, with a 24' height limit. For comparison, the lot area of the remnant parcel on its own would yield a building footprint of 2,331 sf.

The purpose of the Historic Residential (HR-I) District is to:

- A. preserve present land Uses and character of the Historic residential Areas of Park City,
- B. encourage the preservation of Historic Structures,
- C. encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,
- D. encourage single family Development on combinations of 25' x 75' Historic Lots,
- E. define Development parameters that are consistent with the General Plan policies for the Historic core, and
- F. establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

Background

On June 4, 2012, the City received a completed application for the 429 Woodside Avenue plat amendment. The proposed plat amendment combines Lot B of the Elder Park Subdivision (4,573 sf) with a 6,853 sf adjacent Parcel, resulting in an 11,426 sf lot. The property is located in Block 29 of the Park City Survey.

The Elder Park Subdivision, recorded on January 4, 1996, combined Lots 5 and 6, Block 1 with Lots 1- 4 of Block 29, Park City Survey creating Lot A (2,925 sq. ft) at 421 Woodside and the subject Lot B (4,573 sq. ft.) at 429 Woodside.

There is a Significant historic home located on Lot B. The home is being reconstructed with an addition approved in September of 2008 under the previous Historic Design Guidelines and LMC. A Steep Slope CUP was approved by the Planning Commission on September 10, 2008.

The proposed plat amendment creates one (1) lot from an existing lot and adjacent landlocked Parcel under common ownership. Both the Lot and adjacent Parcel are within the HR-1 District. Although bounded by open space on three sides, the adjacent Parcel is not a designated open space parcel. The plat amendment will result in an 11,426 square foot lot.

Lots in this neighborhood on the west side of Woodside range in size from 2,925 to 9,375 sq. ft. and lots on the east side of Woodside range in size from 1,875 to 9,375 sq. ft. With the proposed limits of disturbance and the restricted building pad on the Parcel lot area the buildable lot area of the proposed lot is approximately 5,377 sq. ft. with the remainder as open space.

The rear Parcel was not owned by the Sweeney Land Company at the time the surrounding area was platted as part of the Treasure Hill Phase One Subdivision plat (1996), and subsequently zoned ROS from HR-1 in accordance with the Sweeney MPD. Norfolk Avenue was vacated during the Sweeney MPD and platting, thus removing street access from lots and parcels fronting on the east side of Norfolk

Avenue. With the exception of the subject Parcel and two other lots to the rear of 401/403 Woodside (commonly owned by 401/403 Woodside), the remaining lots on Norfolk in this Block were owned by the Sweeney Land Company and were subject to the Sweeney MPD and Treasure Hill plat.

The rear Parcel was owned by a third party when the previous owner of Parcel B, the Elders, submitted the application for the Elder Park Subdivision.

Analysis

Staff reviewed the proposed plat amendment request and found compliance with the following Land Management Code (LMC) requirements for lot size and width:

	LMC requirement	Existing Lot B	Proposed Lot 1
Minimum lot size	1,875 sq. ft.	4,573	11,426 sq. ft.
Minimum lot width	25 ft.	60.98 ft.	60.98 ft. (no change in width)

The resulting Lot will meet the minimum lot and site requirements of the HR-1 District.

There is an encroachment of a wooden step associated with the Quittin’ Time condominiums onto the rear Parcel (see below and also Exhibit B). There is also an informal path on the property that is not part of the City’s Master Trail plan and is not within a recorded trail easement. The applicant proposes to identify the northwest section of the Parcel as “winter ski access permitted”. A ski access, trail, and wooden step easement for the benefit of Quittin’ Time condominiums is proposed to incorporate the wooden step and informal pathway from the step to the north property line. The informal path is utilized by Quittin’ Time residents. Existing evergreen trees as shown on the existing conditions survey will be preserved by the platted limits of disturbance area.

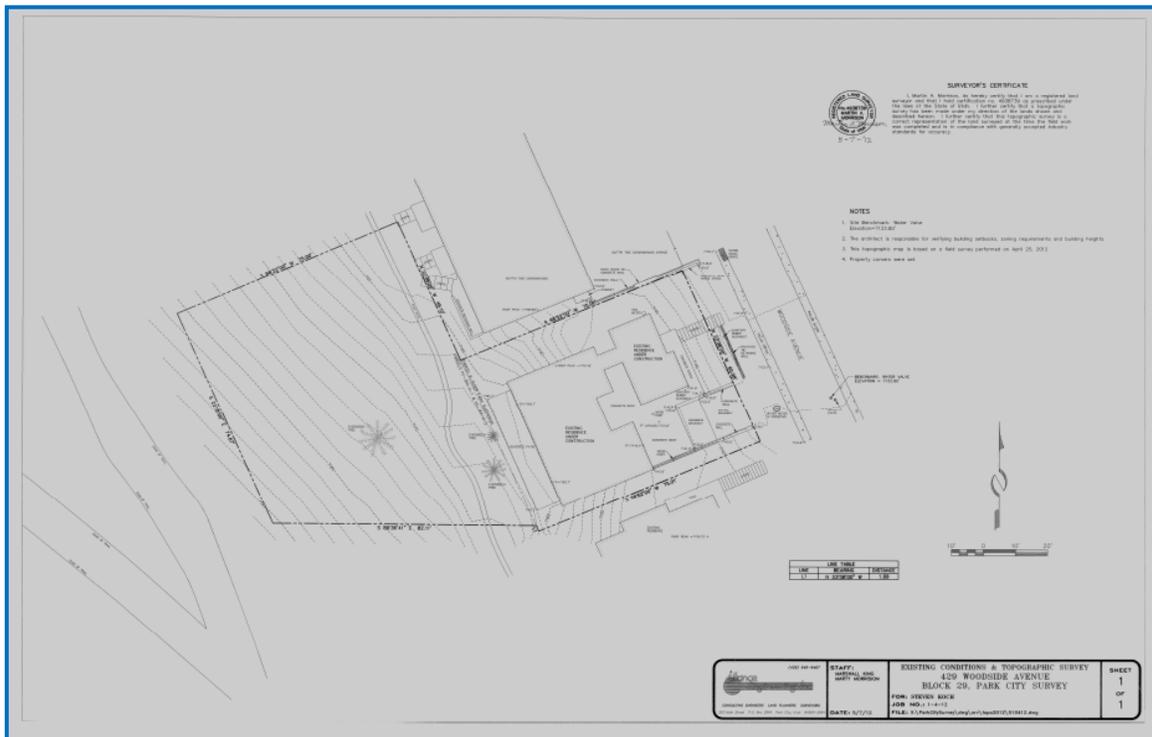
The applicant has agreed to plat a maximum future building envelope, limit the area that can be disturbed, limit the total building footprint, increase the north side and rear setbacks, provide the general winter ski access across the northwest corner of the Parcel, and provide a step and trail easement for Quittin’ Time condominiums. As proposed and conditioned, the plat amendment complies with the HR-1 zone by limiting the development, providing access to open space, and providing open space by identifying a no-build area.

All utility services (water, sewer, power, etc.) for any future use or accessory structure are required to be extended from the existing house. No separate services, meters, or hook-ups are allowed. Any future accessory structure would be considered an extension of the main house and may not be separately rented, leased, or sold. Any future accessory structure shall not be an accessory dwelling unit, guest house, secondary quarters, or accessory apartment, but can be accessory to the main house.

Any construction of more than 1,000 sf of floor area within the platted building pad would require approval of a Steep Slope conditional use permit prior to issuance of a

building permit. Construction on the Parcel would be in accordance with the development standards of the HR-1 District as summarized below:

Parameter	Permitted
Height	27 feet maximum from existing grade (maximum height of accessory structure is 24' from existing grade)
Front setback	10 feet minimum (no change to setbacks on Woodside Avenue- due to existing historic house)
Rear setback	30 feet minimum (34.85 feet proposed)
Side setbacks	5 feet minimum (8 feet proposed on south, 49' proposed on north)
Footprint	Maximum allowed for combined lot- 3,006 sq. ft. Proposed total maximum- 2,698 sf ft. <ol style="list-style-type: none"> 1. Existing house (1768 sf) 2. Additions (270 sf) 3. Future accessory structure (660 sf)
Parking	Non required for historic, 2 constructed with current remodel/addition
Stories/horizontal articulation	3 stories maximum, with a 10' horizontal step for the third story.
Construction on 30% or greater slope	Requires a Steep Slope CUP for construction greater than 1,000 sf of floor area.



Existing Conditions- for illustration only (See Exhibit B for 11" by 17" submitted with packet)

Good Cause

Staff finds good cause for this plat amendment as it will combine all of the property owned by this owner at this location. As proposed and conditioned with the above stated restrictions, the plat amendment is consistent with the purposes of the zone and complies with the Land Management Code.

With the proposed plat restrictions, proposed ski access, and trail and wooden step encroachment easement, much of the property will continue to be used as it is today, as visual open space behind the Quittin' Time condos and for winter ski access to Woodside. The area of the Parcel located directly behind the Quittin' time condos is proposed to be designated as a "no-build" zone.

If the 6,853 sf parcel were to be separately developed (provided access could be provided) the LMC building footprint formula would allow a footprint of 2,331 sf. The accessory structure footprint is limited to a maximum of 660 sq. ft. within a proposed 804 sq. ft. building pad. The existing house is restricted to a maximum increase of 270 sq. ft. The accessory structure is limited to twenty-four (24') in height from existing grade.

Process

This application is only to combine the properties and remove the interior lot line. This process does not approve any future construction. Prior to issuance of any building permits, the applicant would have to submit a Historic District Design Review application, which is reviewed administratively by the Planning Department and requires noticing of the adjacent property owners. A Steep Slope Conditional Use Permit (CUP) application is also required for construction consisting of more than 1,000 square feet of floor area and on a slope of 30% or greater. Steep Slope CUPs are reviewed by the Planning Commission and public notice is provided.

Approval of this plat amendment application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC 1-18.

Department Review

This project has gone through an interdepartmental review. The Snyderville Water Reclamation District (SBWRD) will review the final plat prior to signing and recordation. Any sewer service for the rear portion of the lot is required to be extended from the current service. No separate service to the rear lot is allowed. Additional sewer and water fees for any proposed construction would be required at the time of building permit issuance. Encroachments have been addressed.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published in the Park Record according to requirements of the Land Management Code.

Public Input

The Planning Department received public input from owners of Quittin Time condominiums (see Exhibit H).

Alternatives

- The Planning Commission may forward a positive recommendation to the City Council for the 429 Woodside Avenue plat amendment as conditioned or amended; or
- The Planning Commission may forward a negative recommendation to the City Council for 429 Woodside Avenue plat amendment and direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion on the 429 Woodside Avenue plat amendment and provide specific direction regarding additional information needed to make a recommendation.

Significant Impacts

There are no significant fiscal or environmental impacts from this application, with the exception that the property will be taxed higher as improved property.

Consequences of not taking the Suggested Recommendation

A separate lot of record for the metes and bounds parcel could not be created because there is no access to a public or private street and no access easements leading to a public or private street. The parcel is land locked. No construction could take place across the existing lot lines and all setbacks from existing lot lines would have to be met.

Recommendation

Staff recommends the Planning Commission hold a public hearing for the 429 Woodside Avenue plat amendment and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law, and conditions of approval as found in the draft ordinance.

Exhibits

Ordinance

Exhibit A – Proposed Plat

Exhibit B – Existing conditions survey

Exhibit C – Vicinity map

Exhibit D – Aerial Photograph

Exhibit E – Existing subdivision plat

Exhibit F – County plat map

Exhibit G – Photographs

Exhibit H – Letter from the adjacent neighbor

**AN ORDINANCE APPROVING THE 429 WOODSIDE AVENUE PLAT AMENDMENT,
LOCATED AT 429 WOODSIDE AVENUE, PARK CITY, UTAH.**

WHEREAS, the owner of the property located at 429 Woodside Avenue has petitioned the City Council for approval of the plat amendment; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on July 11, 2012, to receive input on plat amendment; and

WHEREAS, the Planning Commission, on July 11, 2012, forwarded a recommendation to the City Council; and,

WHEREAS, on August 9, 2012, the City Council held a public hearing to receive input on the plat amendment; and

WHEREAS, it is in the best interest of Park City, Utah to approve the 429 Woodside Avenue plat amendment as it combines adjacent property owned in common into a single lot of record; resolves a “land locked” parcel issue; restricts the footprint, height, setbacks, and limits of disturbance on the parcel; and provides a winter ski access across the property for use by neighborhood; and resolves an encroachment issue.

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

SECTION 1. APPROVAL. The 429 Woodside Avenue plat amendment as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 429 Woodside Avenue.
2. The property is located in the Historic Residential (HR-1) District.
3. The property is subject to the June 19, 2009 Design Guidelines for Historic Districts and Site.
4. The property is subject to the conditions of The Elder Park Subdivision, recorded on January 4, 1996, combined Lots 5 and 6, Block 1 with Lots 1- 4 of Block 29, Park City Survey creating a Lot A (39' by 75') at 421 Woodside and the subject Lot B (60.98' by 75') at 429 Woodside.

5. Access to the property is from Woodside Avenue.
6. The proposed plat amendment combines the 4,573 sf Lot B of the Elder Park Subdivision with a 6,853 sf adjacent metes and bounds described Parcel (PC-364-A-1), resulting in an 11,426 sf lot. The property is located in Block 29 of the Park City Survey.
7. The minimum lot size within the HR-1 District is 1,875 square feet.
8. The minimum lot width within the HR-1 District is twenty-five feet (25').
9. The width of the proposed combined lot does not change with the addition of the Parcel to the rear.
10. The maximum allowed building footprint for the combined lot is 3,006 square feet. The plat restricts the maximum building footprint to 2,698 sf. The existing Historic house with additions is allowed a maximum footprint of 2,038 sq. ft (1,768 sf existing and 270 sf of additions). The future accessory structure is allowed a maximum of 660 sq. ft. of footprint.
11. There is a Significant historic home located on Lot B. The home is being reconstructed with an addition, approved in September of 2008 under the previous Historic Design Guidelines and LMC. A Steep Slope CUP was approved by the Planning Commission on September 10, 2008.
12. The submitted certified survey of existing conditions indicates that there is a wooden step associated with the Quittin' Time condominiums that encroaches on the Parcel. There is also an informal foot path on the Parcel that is used by Quittin' Time to access the open space to the north. The applicant agrees to plat an encroachment easement for the wooden step and path and to allow winter ski access across the northwest corner of the Parcel. The survey identifies three evergreen trees on the Parcel.
13. The Snyderville Basin Water Reclamation District (SBWRD) has reviewed the proposed plat and identified that all services for any future accessory structure on the Parcel will have to be extended from the existing house. No individual or separate services or meters, including water or electricity, will be allowed.
14. The property owner will need to comply with the requirements of the Snyderville Basin Water Reclamation District (SBWRD) before the District will sign the plat. All utility services (water, sewer, power, etc.) for any future use or accessory structure are required to be extended from the existing house. No separate services, meters, or hook-ups are allowed.
15. Any future accessory structure shall be an extension of the main house and may not be separately rented, leased, or sold. Any future accessory structure shall be an accessory dwelling unit, guest house, secondary quarters, or accessory apartment, and shall be accessory to the main house.
16. No remnant parcels of land are created with this plat amendment.
17. Any future construction on the Parcel for an accessory structure greater than 1,000 square feet in floor area and proposed on a slope of 30% or greater requires a Conditional Use Permit Application review by the Planning Commission.
18. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

19. This application is only to combine the properties and remove the interior lot line and does not provide approvals for the construction of any Structure or addition on the property.
20. The applicant consents to all conditions of approval.

Conclusions of Law:

1. There is good cause for this plat amendment in that the combined lot will remove the lot line between the commonly owned Lot and Parcel and will combine into one lot all of the Property owned by this owner at this location. The plat notes and restrictions resolve encroachments and access issues, limit building pad and footprint, increase setbacks, and preserve significant vegetation.
2. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding lot combinations.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. Approval of the plat amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. A 10' (ten foot) snow storage easement shall be dedicated to Park City across the property's frontage on Woodside Avenue.
4. The maximum building footprint on the Lot shall be restricted to 2,700 square feet.
5. The building pad is limited to an area of 804 square feet as depicted on the plat. Any area outside of the building pad area is a no build zone. The accessory structure is limited to twenty-four (24') in height from existing grade.
6. If the accessory structure contains more than 1,000 square feet of Floor Area, as defined by the Land Management Code at the time of building permit application, then a Steep Slope Conditional Use permit is required prior to permit issuance. Historic District Design Review is a condition precedent to building permit issuance.
7. Modified residential 13-D sprinklers shall be required for all new construction.
8. The property owner shall comply with applicable requirements of the Snyderville Basin Water Reclamation District (SBWRD).
9. The plat shall include an encroachment easement for the Quittin' Time condominiums wooden step and foot path from the step to the north property line.
10. The plat shall contain a note indicating that the northwest area of the Lot is identified as "winter ski access permitted".
11. Receipt and approval of a Construction Mitigation Plan (CMP) by the Building Department is a condition precedent to the issuance of any building permit. The

CMP shall include the method and means of protecting the historic house during construction.

12. All utility services (water, sewer, power, etc.) for any future use or accessory structure are required to be extended from the existing house.
13. A note shall be added to the plat indicating that any detached, accessory structure constructed on the rear portion of the Lot must be used as a part of the existing house and may not be rented, sold, or leased separately from the main house.
14. Conditions of approval of the Elder Subdivision (Ordinance 95-7) and the 429 Woodside HDDR and Steep Slope Conditional Use Permit continue to apply.
15. All standard conditions of approval shall apply.

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

PASSED AND ADOPTED this _____ day of August, 2012.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, MAYOR

ATTEST:

Jan Scott, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

SURVEYOR'S CERTIFICATE

I, John Dominko, certify that I am a Registered Land Surveyor and that I hold Certificate No. 154491, as prescribed by the laws of the State of Utah, and that by authority of the owner, I have prepared this Record of Survey map of the 429 WOODSIDE AVENUE SUBDIVISION and that the information on this plat is accurate.



BOUNDARY DESCRIPTION

PARCEL 1: Beginning at the southeast corner of Parcel B of the Elder Park Subdivision as filed and of record as Entry No. 445709 in the office of the recorder, Summit County, Utah; thence along the westerly boundary of the Quilting Time Condominiums and on file and of record as Entry No. 429295 in the office of the recorder, Summit County, Utah; to the point of beginning; thence along the following lines: 1) South 89.3641° West 75.00 feet to the line of the 21' South 23.3800° East 74.67 feet; thence 2) South 89.3641° East 82.11 feet to a point on the westerly boundary of Parcel 2, 59.13 feet to the point of beginning.

PARCEL 2: Lot B, Elder Park Subdivision, according to the official plat on file in the Summit County Recorder's Office.

OWNER'S DEDICATION AND CONSENT TO RECORD

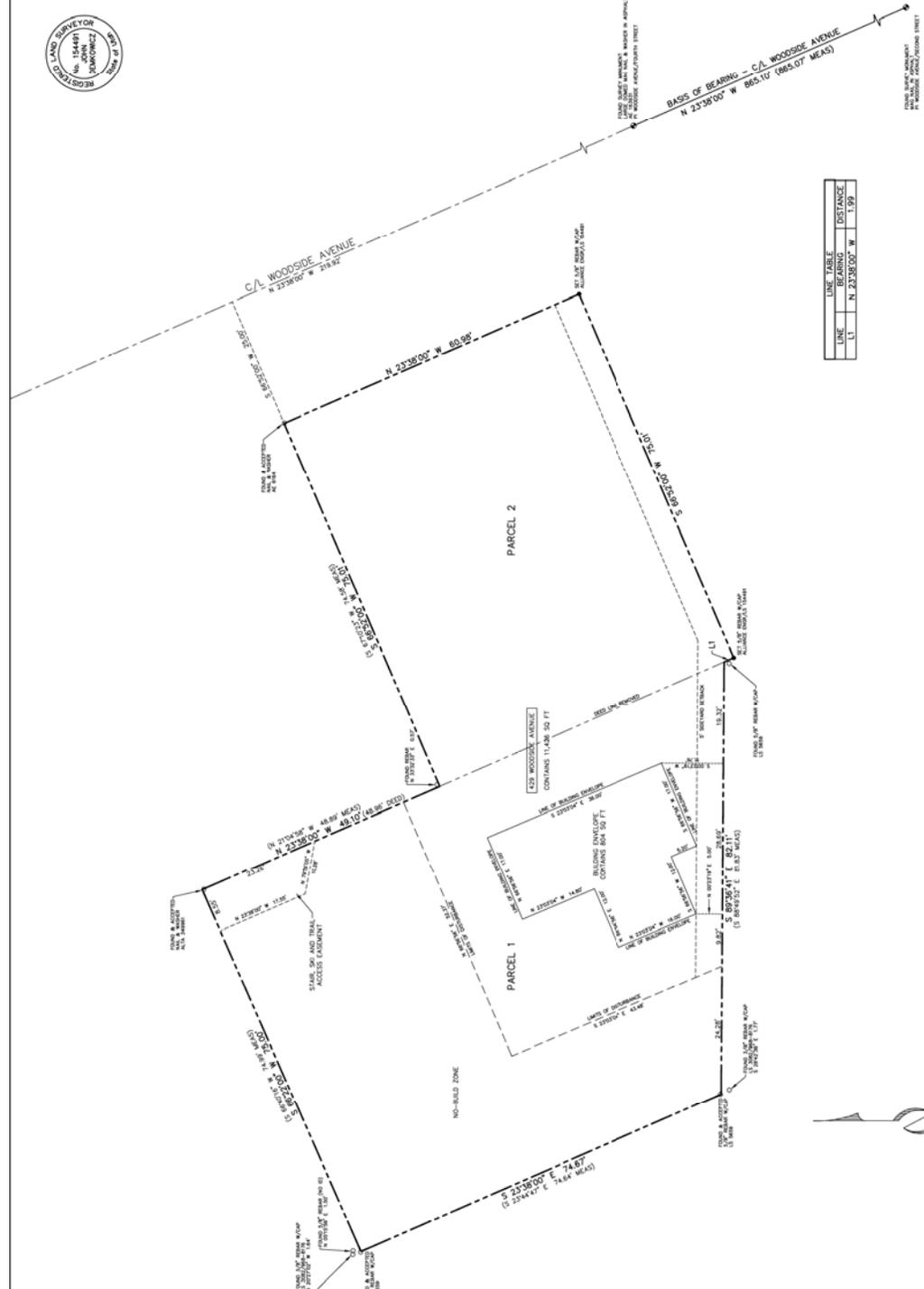
KNOW ALL MEN BY THESE PRESENTS that the undersigned owner of the herein described tract of land, to be known hereafter as 429 WOODSIDE AVENUE SUBDIVISION, do hereby certify that he has caused this Plat to be prepared, and I, Steven Koch, Manager of 429 Woodside Avenue, LLC, an Illinois limited liability company, do hereby consent to the recording of this Plat in witness whereof, the undersigned set his hand this _____ day of _____, 2012.

Steven Koch
Manager, 429 Woodside Avenue, LLC, an Illinois limited liability company

ACKNOWLEDGMENT

State of _____
County of _____
I, _____, Notary Public, do hereby certify that the foregoing plat was duly presented to me for record on this _____ day of _____, 2012, at _____, Utah, and that the same was duly recorded in my office in accordance with the laws of the State of Utah.

NOTES
1. Any detached structure constructed on the rear portion must be used on a permanent foundation and may not be rented, sold, or leased.
2. All utilities must be extended from the existing residence to the necessary structure.



LINE	BEARING	DISTANCE
L1	N 23.3800° W	1.99

429 WOODSIDE AVENUE PLAT AMENDMENT
BLOCK 29, PARK CITY SURVEY
LOCATED IN SECTION 16
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

FILE: X:\Records\Survey\429 Woodside\130412.dwg SHEET 1 OF 1

<p>(201) 644-4497 CONSULTING PLANNERS LAND PLANNERS SURVEYORS 323 Main Street, P.O. Box 2884 Park City, Utah 84401-2884</p>	<p>SYNDERVILLE BASIN WATER RECLAMATION DISTRICT REVIEWED FOR CONFORMANCE TO SYNDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____, 2012 A.D. BY _____ S.B.W.R.D.</p>	<p>PLANNING COMMISSION APPROVED BY THE PARK CITY PLANNING COMMISSION THIS _____ DAY OF _____, 2012 A.D. BY _____ CHAIR</p>	<p>ENGINEER'S CERTIFICATE FIND THIS PLAT TO BE IN ACCORDANCE WITH THE PROVISIONS OF THE UTAH PLAT ACT AND FILE IN MY OFFICE THIS _____ DAY OF _____, 2012 A.D. BY _____ PARK CITY ENGINEER</p>	<p>APPROVAL AS TO FORM I APPROVE AS TO FORM THIS _____ DAY OF _____, 2012 A.D. BY _____ PARK CITY ATTORNEY</p>	<p>CERTIFICATE OF ATTEST I CERTIFY THIS RECORD OF SURVEY WAS FILED BY THE CITY MAP COUNCIL THIS _____ DAY OF _____, 2012 A.D. BY _____ PARK CITY RECORDER</p>	<p>COUNCIL APPROVAL AND ACCEPTANCE APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2012 A.D. BY _____ MAYOR</p>	<p>RECORDED STATE OF UTAH, COUNTY OF SUMMIT AND FILED AT THE REQUEST OF _____ DATE _____ TIME _____ BOOK _____ PAGE _____ FEE _____ RECORDER _____</p>
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Legend

-  Parcels
-  Streets

**429 Woodside Avenue
Vicinity Map**



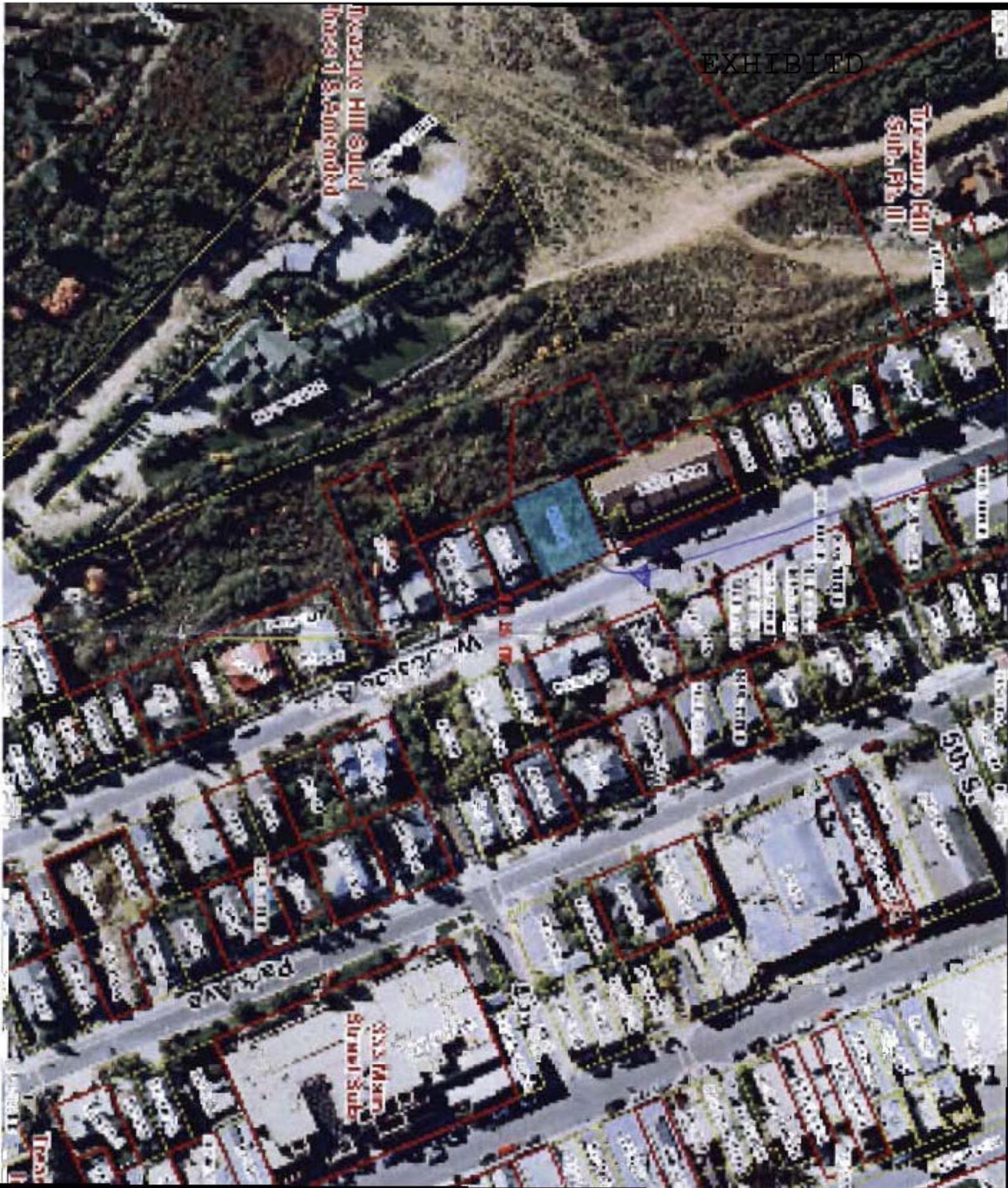


EXHIBIT F

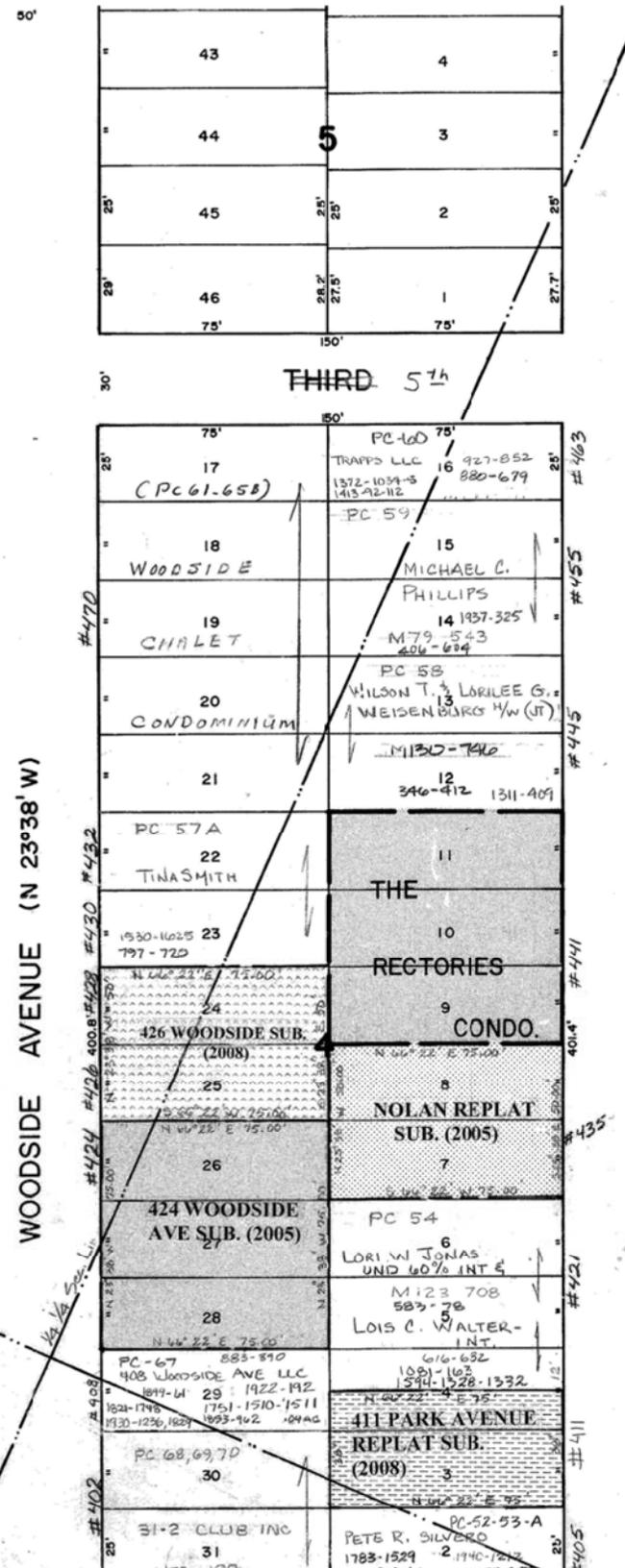
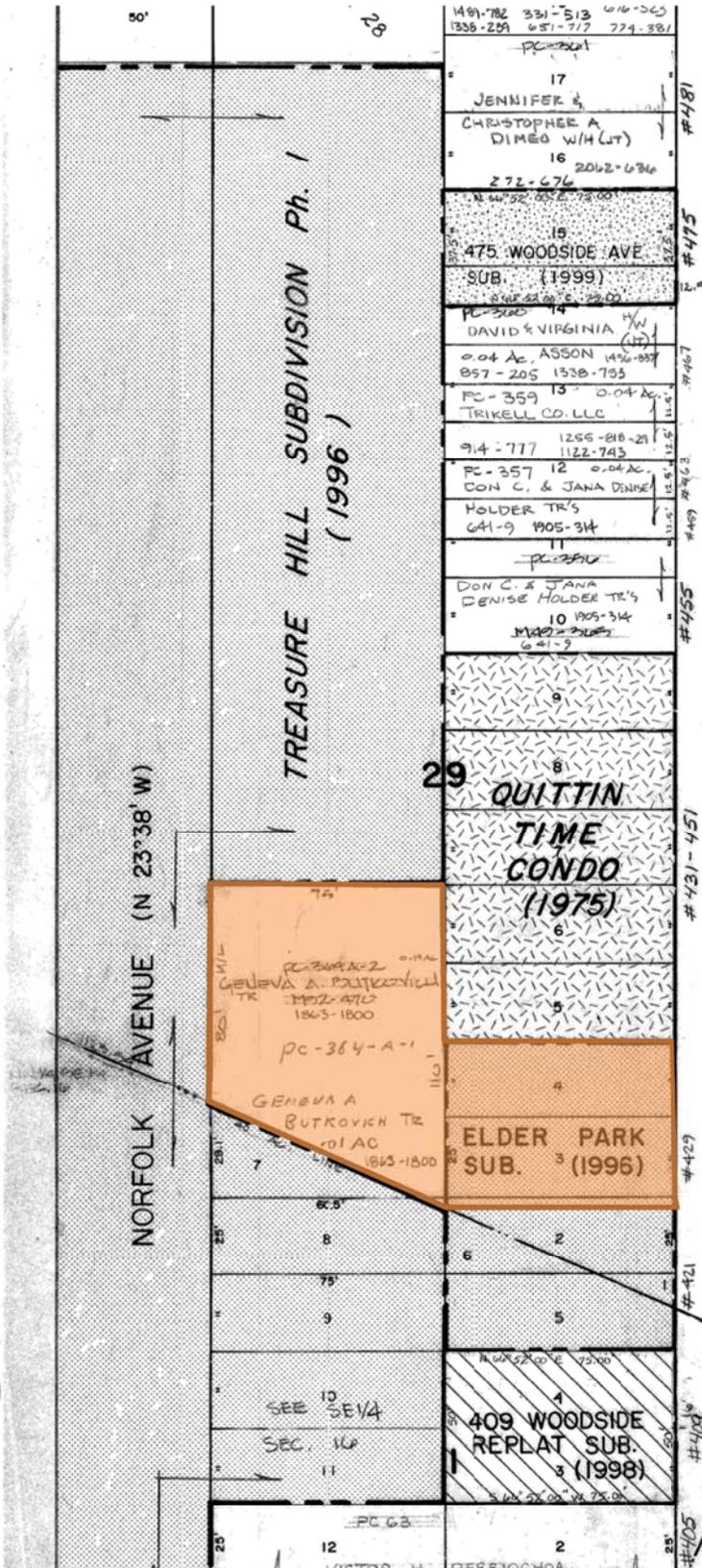








EXHIBIT H

STEVEN KOCH

June 1, 2012

Mr. Christer Whitworth
President
Quittin Time Condominium Home Owners Association
P. O. Box 58549
Salt Lake City, UT 85158

Dear Mr. Whitworth:

Thank you for your letter of May 29. I wanted to correct some of your impressions for our letter seeking consent. I don't know if you will come to agree to give consent, but, at a minimum, as your new next door neighbor, I wanted to make sure you understood what we are doing and why. I also look forward to having the opportunity to meet you in the future.

We are simply seeking to have the lot line that currently exists between the two pieces of contiguous property that I own removed. This would have two main effects on the overall site – both of which I would view as neutral or positive to you.

First, eliminating the lot line allows me to add a small amount of buildable floor area to enclose the center section of the house built at 429 Woodside Avenue. This change is almost entirely invisible from the street, does not increase or in any way affect the perimeter of the existing house on the back, front or sides, and makes the house substantially more livable. I assume that this is not objectionable to you. If you like, I, of course, would be willing to send you a floor plan that illustrates this change from the unfinished house that is on the site now.

Second, we currently, as I understand the legal situation and land use regulations, have the right to build a free standing house on the empty lot that I own that is uphill from 429 Woodside Avenue. Importantly from your perspective, I understand that the effect of eliminating the lot line is to actually decrease the potential size of the structure that I could build now without seeking a variance. I do not currently plan to build a second structure on this lot, but I might at some point in the future.

I certainly understand that the Quittin Time Association might prefer that nothing ever be built on this land, but as the land in question is privately, not publicly, owned, I hope you will appreciate my position of using my land in accordance with the zoning and planning rules that are in place.

I am sympathetic to your interest in wanting to access the ski run. If you would like to discuss this, I would be open to a discussion of exploring how the members of the Quittin Time Association could access the ski run over some portion of my land. Obviously, I am interested in how my land is used, and will act to make sure that I have knowledge of access across my land and control that access:

If you would like to discuss this, I can be reached at (312) 750-3011 (Office) or (312) 848-0447 (Cell).

All the best,



Steven Koch
2012 North Mohawk Street
Chicago, IL 60614

David G. White, Architect, PC
PO BOX 1313
2703 Estates Drive
Park City, UT 84060

May 29, 2012

Dear Mr. White,

In your letter of 10 May, you asked for the consent of the owners of Quittin Time Condominiums to your proposal to annex lots PC-364A-1&2 to lot ELP-B at 429 Woodside in order increase the allowable footprint of 429 sufficiently for construction of a guest house connected via a covered stairway to the house currently under construction at that address.

This proposal came as quite a shock to us. It has been our understanding that, with the approval by the Planning Commission of the construction of the 2 houses by Pat Sweeney on the southern flank of the Quittin-Time ski run some 25 years ago, there was to be no further construction in the area behind our building.

I am writing this letter on behalf of the Quittin Time Homeowners Association to express our collective opposition to your proposal. It will severely restrict the privacy, view, sunlight, ventilation and ski in/ski out access of at least 3 of our condos -- especially so because they have only front and back exposure -- as well as pose a fire hazard to our building due to the inaccessibility of fire-fighting equipment.

I trust you and the owners of 429 Woodside will respect our concerns, build nothing on Lots PC-364A-1&2, and retain the current amount of open space behind both our buildings.

Sincerely,

Chris Whitworth
President, Quittin Time HOA

David G. White, Architect, PC

PO Box 1313 2703 Estates Drive

Park City, UT 84060

435-649-8379

dgwarch@xmission.com

May 10, 2012

STATEMENT OF INTENT

The intent of this project is to combine the property at 429 Woodside Ave. with the open lot behind. The 429 Woodside lot has an existing home which consists of a re-constructed Historic home with new addition behind. When the two lots are combined, the new owner will have the flexibility to work on the existing home and take advantage of a small increase in allowable footprint. With the increased allowable footprint, the owner would also like to plan for a future small guest quarters on the property to the rear. This structure would be totally separate from the main house and accessed only by a covered stairway on grade. The owner would like to set aside an agreed building pad and footprint for the new guest area and leave the remainder of the rear lot as open space. The owner would also consider granting an easement for a hiking/ski trail access to the adjacent properties.

Kirsten Whetstone

From: Sheldon Lewis <shelewis3@gmail.com>
Sent: Thursday, July 05, 2012 7:13 AM
To: Kirsten Whetstone
Cc: Chris Whitworth; Rob Corson; Kelley Green
Subject: PUBLIC HEARING: PL-112-01550
Attachments: Koch Letter to QTHOA.pdf; White Statement of Intent to QT Owners.pdf

Hi Kirsten,

Chris Whitworth, President of the Quittin Time Homeowners Association, forwarded to me your Notice of Public Hearing regarding Application #: PL-12-01550 for 429 Woodside Avenue. As you know, Sue and I traveling and cannot receive regular mail.

While the Owners of Quittin Time Condominiums have no objection to this Application's stated objective of "combining Lot B of the Elder Park Subdivision with an adjacent parcel" for the purpose of further modification of his "unfinished house" at 429 Woodside, it is our understanding from letters to us from both Mr. Koch and his architect, Mr. White, that Mr. Koch also intends to construct a slab on the adjacent parcel for the purpose of building a "guest house" on it. These letters are attached. It is this, perhaps unstated objective, that we vigorously oppose.

At Mr. Koch's invitation, Chris Whitworth requested more information on his plans. Mr. Koch has not responded. We believe that Mr. Koch's acquisition of this adjacent parcel and his subsequent request to remove the property line between this parcel and 429 Woodside is simply a ruse to codify the completion of his house at 429 Woodside that is larger than was permitted by City Code and then, at a later time, construct yet another house on the previously landlocked adjacent parcel. We have summarized the reasons for our opposition to Mr. Koch's proposal in our previous correspondence with you.

Are we correct in concluding that this Application, if approved without modification and deed restriction, will pave the way for the construction of this second house? We would very much like your advice and counsel on how to proceed in this matter.

Planning Commission Staff Report



Application No: PL-10-01105
Subject: 573 Main Street – A Three Lot
Subdivision
Subject: Francisco Astorga
Date: July 11, 2012
Type of Item: Administrative – Plat Amendment

Summary Recommendations

Staff recommends the Planning Commission hold a public hearing for 573 Main Street - A Three Lot Subdivision Plat Amendment, and forward a positive recommendation to the City Council based on the findings of fact, conclusions of law, and conditions of approval as found in the draft ordinance.

Description

Applicant: CSA10-573 Main, LLC represented by Billy Reed
Location: 573 Main Street and 564 & 572 Park Avenue (approximate)
Zoning: Historic Commercial Business (HCB) & Historic Residential (HR-2)
Adjacent Land Uses: Commercial / Residential
Reason for Review: Plat amendments require Planning Commission review and City Council approval

Proposal

This is a request to reconfigure six (6) Old Town lots and portions of two (2) lots into three (3) lots of record through a plat amendment request. The subject property contains a historic building which was constructed across existing lot lines. This is a revised application to the original one-lot subdivision application submitted in 2010 which was not approved or recorded. The applicant is currently proposing to combine the area they own on Main Street with the lots on Park Avenue to create a three (3) lot subdivision. The entire area is identified with Summit County as parcel no. PC-133. Proposed Lot 1 located off Main Street consists of the site of the Claimjumper building. Proposed Lots 2 and 3 located off Park Avenue consists of two (2) residential lots.

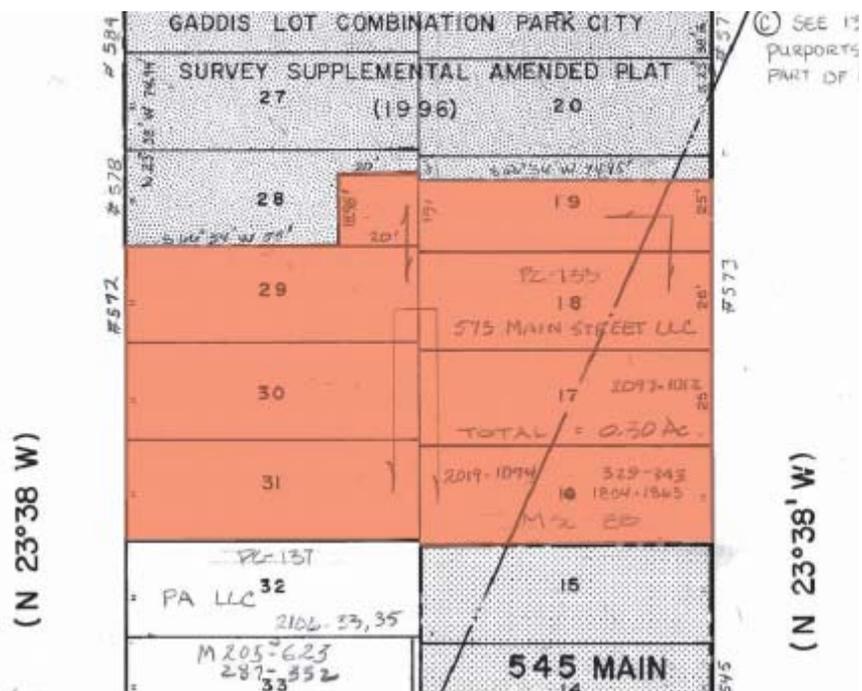
Background

On December 3, 2010, the City received a complete plat amendment application for 573 Main Street - A Single Lot Subdivision, which only included the Main Street lots. The property is located at 573 Main Street within the Historic Commercial Business (HCB) District. The applicant, CSA10-573 Main, LLC is the owner of Lots 16, 17, 18 and a portion of Lot 19 (south 19') of Block 9 of the Park City Survey.

The applicant has submitted a Historic District Design Review (HDDR) application for systems upgrade including structural stability of the building. The applicant indicated a

desire to remodel the interior walls to create a night club/bar/restaurant on the basement level, a restaurant with a lobby for access to the living units above on the main level, and the two (2) upper levels for residential use with one (1) living unit on each floor. The requested work does not include removal of the rear addition.

In February 2011, the applicant requested to place the application on hold due to issues involving the large encroachment of the rear of the structure over the lots fronting Park Avenue. Because the rear Park Avenue lots where the building encroachment occurs is also owned by the same property owner, the applicant is required to bring all of their contiguous land into their plat amendment application pursuant to Land Management Code (LMC) § 15-7.1-6(A)(2). Graphically, the ownership can be represented in the following exhibit shaded in red below:

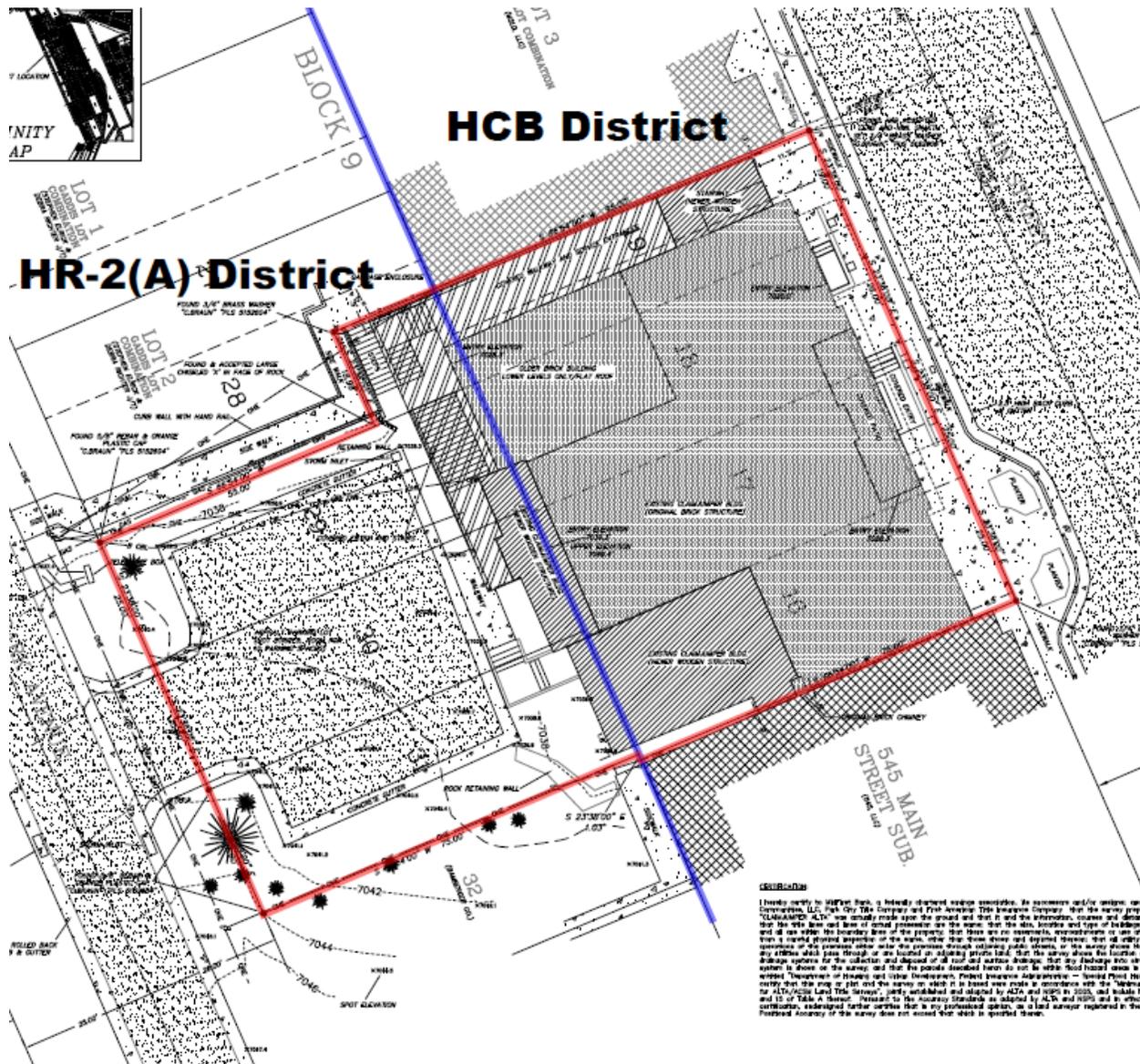


In December 2011, the applicant amended its application request by submitting the revised 573 Main Street – A Three Lot Subdivision plat amendment. This revised plat amendment includes the same lots fronting Main Street where the Claimjumper Building is mostly located as well as the rear Park Avenue lots. This revised plat amendment application was deemed complete on January 12, 2012.

The Claimjumper Building is also known as the New Park Hotel. The Historic Site Inventory (HSI) identifies the site as a Landmark site. The site is also listed in the National Register of Historic Places. The property fronts on, and receives legal access from Main Street.

The property is split by a zone line as shown on the following exhibit below which shows the property line in red, the dividing zone line in blue and the existing improvements shown on an Alta/ACSM Land Title Survey. The Main Street lots are currently within

the HCB District while the Park Avenue lots are currently within the Historic Residential (HR-2) District. Additions to the Claimjumper Hotel building were constructed across existing property and zone lines. These additions consist of a newer wooden structure with a walkway, covered entry, and stairs as well as a small portion of an older brick building addition.



The Planning Commission reviewed this plat amendment application at the April 25, 2012 meeting. At the meeting, after the staff presentation, the applicant requested to continue the item so they could discuss the neighbors' concerns prior to moving forward with the Planning Commission. On June 7, 2012 Planning Staff met with Joe Wrona, representing the applicant, and Joe Tesch, representing the neighboring property owners, where the City officially learned that no amendments to the application were proposed. Because of the delays, Staff required the applicant to re-notice the item

which was done for the June 28, 2012 Planning Commission meeting.

During the June 28, 2012 meeting the Planning Commission reviewed the requested plat amendment. During this meeting the Commission reviewed the conditions of approval recommended by staff as well as conditions of approval requested by the neighboring property owners. See Exhibit J - Public Input, requested conditions of approval - Joe Tesch. The Planning Commission continued the discussion to July 11, 2012 and directed staff to incorporate four (4) conditions of approval outlined in Exhibit J. These additional conditions have been incorporated in the draft ordinance.

2007 Applications

In March 2007 the Historic Preservation Board (HPB) reviewed a Determination of Historical Significance whether or not the wooden rear additions identified below were historically significant. See exhibit containing 2007 photographs below:



The HPB determined that the wooden additions were added in 1987 and therefore were not historically significant. There was no request for review of the “older brick building” addition. This determination guided the proposed renovation of the historic structure through the submittal of a HDDR and plat amendment application.

In April 2007 the City Council approved a single lot subdivision of the Main Street lots only upon which the historic structure sits. The Park Avenue lots were not included in this plat amendment request and there was a condition of approval to remove the non-historic additions which encroached over the lot line. This condition of approval was not met and the approval was voided because it expired.

In June 2007 the Planning Department reviewed and approved a HDDR application to remove the non-historic additions and include a roof addition of two (2) penthouse units. The applicant did not meet the condition of approval of obtaining a building permit within a year's time from the approval date and the HDDR approval was also voided because it expired.

In September 2007 the Planning Department reviewed and approved an administrative Conditional Use Permit (CUP) for a Private Residence Club and Conversion, a form of

fractional or interval ownership for ten (10) residential club units. The applicant did not meet the condition of approval of obtaining a building permit within a year's time from the approval date. The administrative CUP approval expired.

In 2009 the City Council approved an ordinance approving amendments to the LMC which changed the criteria for designation of historic sites. Also the City Council adopted the Design Guidelines for Historic Districts and Historic Sites and the HPB adopted, by resolution, the Historic Site Inventory. The site was listed as a contributing building on the National Register of Historic Places in 1979 as part of the *Park City Main Street Historic District*. It was built within the historic period (1868-1929), is associated with the mining era, and retains its historic integrity. As a result, it meets the criteria set forth in LMC Chapter 15-11 for designation as a Landmark Site.

As indicated on the submitted site plan survey, the Park Avenue lots currently contain an asphalt parking lot with a concrete gutter. This parking area is not striped and has room for ten (10) parking spaces. Through conversations with the neighboring lot owners it has been estimated that the parking area was built between the late 1980's and early 1990's. There is also a building permit found in the Building Department which has simply been labeled as a *grading* permit issued in January 1993. The parking area located rear of the building was built to accommodate the various uses in the building, such as offices, restaurants, and bars, etc.

Analysis

The site is located within the Historic Commercial Business (HCB) District and the Historic Residential (HR-2) District. Staff has reviewed the proposed plat amendment request and found compliance with the following LMC requirements:

Lot 1 (HCB)

HCB District	LMC Requirement	Proposed Lot 1, Main Street
Minimum lot area	1,250 square feet	8,999.8 square feet, <u>complies</u>
Minimum lot width	25 feet	94.97 feet, <u>complies</u>
Minimum lot depth	50 feet	75 feet, <u>complies</u>

There is no minimum required front, rear, or side yard dimensions in the HCB District. The maximum height envelope for the zone is thirty feet (30') at property line traversing at a forty-five degree (45°) angle back to a maximum of forty-five feet (45') above existing grade. The existing historic building does not comply with the height envelope and therefore the building is a legal non-complying structure.

The existing rear additions to the historic building which currently encroach onto the adjacent lots which front onto Park Avenue will be part of Lot 1 and are located within the HR-2 zoning district.

Lots 2 and 3 (HR-2)

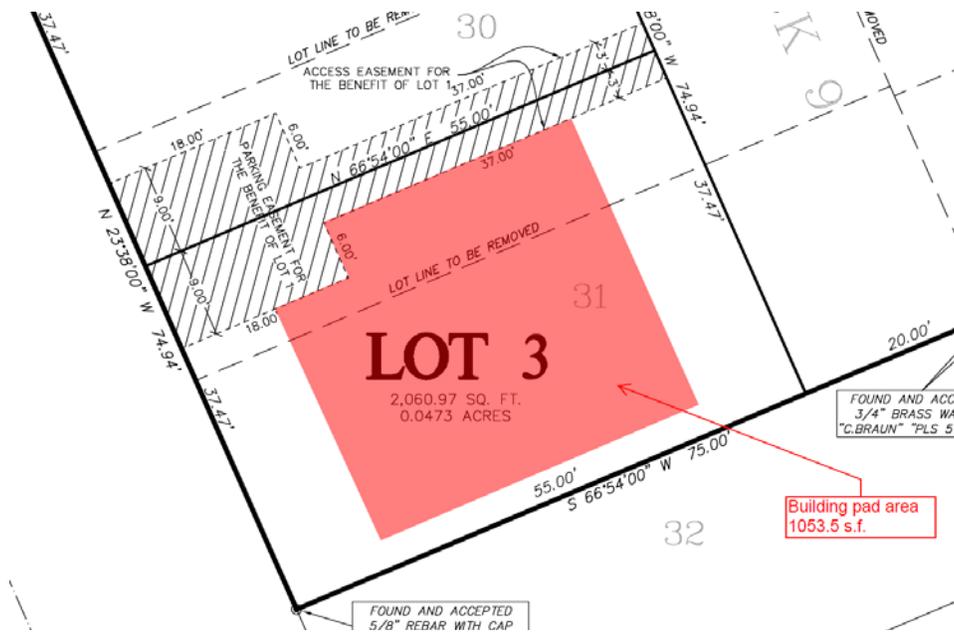
The Park Avenue lots are also under the same ownership, CSA10-573 Main, LLC, currently identified by the same parcel no. PC-133 and have been included in this plat

amendment request. The proposed lots are reconfigured so that there are no improvements encroaching over the rear lot line. All commercial access to the Claimjumper Building, 573 Main Street, is required to be off Main Street. Both Lots 2 and 3 are the same dimensions.

HR-2 District	LMC Requirement	Proposed Lot 2 & 3, Park Avenue
Minimum lot area	1,875 square feet	2,060.97 square feet, <u>complies</u>
Minimum lot width	25 feet	37.47 feet, <u>complies</u>
Minimum lot depth	None	55 feet

The LMC defines setbacks are the required minimum distance between a building pad and the closest property line, platted street, or existing curb or edge of a street. The minimum front/rear yard setbacks of proposed Lot 2 & 3 are ten feet (10'). The minimum side yard setbacks are three feet (3'). The maximum height is twenty-seven feet (27') with a total of three (3) stories. The building footprint based on the footprint formula (LMC 15-2.3-4(D)) is limited to a maximum of 917.8 square feet. Also each lot will require two (2) off-street parking spaces for their residential use.

The building pad is the lot area minus required front, rear, and side yard areas. The LMC defines it as the exclusive area, as defined by the yards, in which the entire building footprint may be located. The proposed building pad equates to 1,101.5 square feet without the parking access easement. Due to the proposed parking easement on these two (2) lots the building pad would be further reduced by forty eight (48) square feet, totaling 1,053.5 square feet, as shown below:



As a comparison the building pad of a standard Old Town lot (25'x75', 1,875 s.f.) is 1,045 square feet and the maximum building footprint of such lot is 844 square feet.

Parking

The Claimjumper Building site is current in the Main Street Parking Special Improvement District and therefore is exempt from the parking requirement.

The Park Avenue lots currently contain an asphalt parking lot with a concrete gutter. This existing parking area is currently not striped and has room for ten (10) parking spaces, per the submitted survey.

Currently the HR-2 District allows a *Residential Parking Area or Structure with four (4) or fewer spaces. A Residential Parking Area or Structure with five (5) or more spaces, associated with a residential Building on the same Lot* is allowed through a Conditional Use Permit. The existing ten (10) car parking area is non-conforming use because it does not comply with the current regulation. The property owner proposes to reconfigure the existing ten (10) car parking lot to an area to only consist of two (2) parking spaces total for the exclusive use of the residential units to be located within the Claimjumper interior remodel through a parking easement over the two (2) proposed Park Avenue lots.

Historic District Commission (HDC) minutes of their October 5, 1992 meeting discussed a design review of renovation and addition at Claimjumper Hotel. These minutes were submitted by Joe Tesch as part of an extensive packet containing various comments on April 25, 2012 (See Exhibit E - Public Input - Joe Tesch). As indicated in these minutes, the building was being threatened with condemnation unless it could be brought up to acceptable safety level. This application was for design review of two (2) additions to the building for stairs, including the addition off the back. The Chief Building Official of the time advised the HDC that if the additions could not be made to work, the building would have to be demolished.

There were several permits issued by the Building Department in 1992 which include partial demolition, footing and foundation, shell, and a remodel improvement (interior only). Also indicated on the minutes, the applicant stated that four (4) existing parking spaces would be lost with the proposed plan but the site plan calls for additional parking on the Park Avenue side. Also a condition of approval indicated that the additions were to meet all other requirements of the Land Management Code and Building Code.

The HR-2 District was created from the HR-1 District in 2000. In 1988 the City created the Historic Residential – Low Intensity Commercial Overlay (HR-2) District, for clarity this District will be identified on this staff report as HR-2 Overlay. When the HR-2 District was created in 2000 it changed the base zone where this property is located from HR-1 to HR-2 and it removed both the HR-2 Overlay and the HTO (Historic Transition Overlay), which were both overlay zones at the time. Therefore, the parking area currently on proposed Lots 2 and 3 is legally non-conforming since it was created before the CUP requirement for such parking was part of the LMC and would have been legal under the code at the time it was built.

The parking easement proposed to be dedicated with this plat amendment is for the benefit of the two (2) proposed residential units in the 573 Main Street building. The owner finds it will be important to create parking to ensure residential occupants in the Claimjumper Building have an off-street parking space. The parking easement consists of two (2) parking spaces and a six foot (6') access straddling the shared common property line of the two (2) Park Avenue lots towards the Main Street lot. The proposed parking area platted as an easement over lot 2 and 3 consist of legal parking space standards measuring nine feet (9') in width and eighteen feet (18') in length.

Based on the Planning Commission discussion which took place during the June 27, 2012 meeting, staff recommends adding the following conditions of approval regarding the parking easement:

- The existing parking lot shall be removed by replacing the current parking surface with landscaping until the structures are built on the HR-2 Lots. A landscaping plan shall be approved by the City, but it shall be sufficient to clearly prohibit parking of any vehicles. The existing parking lot shall be removed prior to plat recordation. The landscaping requirement would not be imposed until after renovation is complete.
- The two (2) parking spaces in the HR-2 District shall have a lockable controlled access prohibiting parking of vehicle traffic beyond those spaces.
- The easement from the two (2) parking spaces on the HR-2 to the HCB shall be for the use by occupants of the residential units only.
- Only one private access door may exist from the HCB District to the HR-2 District lots. All other exists must be for emergency access only.
- The parking easement off Park Avenue shall be for the use of the residential units in Lot 1 only and noted on the plat.

Special HR-2A requirements

Sub-Zone A (HR-2A) consists of Lots in the HR-2 Districts that are west of Main Street, excluding those lots within Block 13. The LMC outlines special requirements to Lots in the HR-2A zone are part of a Master Planned Development, a Conditional Use Permit, or a Plat Amendment that combines a Main Street, HCB zoned, Lot with an adjacent Park Avenue, HR-2 zoned, Lot or portion of a Lot, for the purpose of restoring an Historic Structure, constructing an approved addition to an Historic Structure, constructing a residential dwelling or Garage on Park Avenue, or expanding a Main Street Business into the HR-2 zoned Lot (LMC § 15-2.3-8).

The site is located within the HR-2A sub-zone. After careful review staff has made a determination that the requested plat amendment does falls under this category above as the plat amendment is for the purpose of restoring a historic structure and "clean up" the lot lines and building encroachments and to recreate 2 lots of record which will permit construction of residential dwellings on Park Avenue. Therefore, the following special HR-2A requirements are applicable to this plat amendment request:

1. *All Commercial Uses extending from Main Street into the HR-2 Zone are subject to the*

Conditional Use Permit review requirements of Section 15-1-10 and the Master Planned Development requirements of Section 15-6 if the development is part of a Master Planned Development. These Commercial Uses must be located below the Grade of Park Avenue projected across the HR-2 Lot and beneath the Main Floor of a residential Structure or Structures facing Park Avenue. Occupancy of the below Grade Floor Area is conditioned upon completion of the residential structure on the HR-2 Lot.

The development is not part of a Master Planned Development (MPD). The commercial use which is within the HR-2 zone consists of a wooden structure with a walkway, covered entry, and stairs as well as a small portion of an older brick building addition. The area only consists of the stairway and entry and its purpose is to ensure an emergency exit from the building. The stairway was likely built in 1992 and therefore would be a legal non-conforming use and exempt from the conditional use permit requirement.

2. *All Buildings within the HR-2 portion of the development must meet the minimum Side and Front Yard Setbacks of the HR-2 District as stated in Section 15-2.3-4, unless the Planning Commission grants an exception to this requirement during the MPD review and the development is consistent with the MPD Section 15-6-5(C). Below Grade Structures, such as parking structures and Commercial Floor Area extending from Main Street beneath a residential Structure or Structures on Park Avenue may occupy Side Yard Setbacks subject to Building and Fire Codes and trespass agreements.*

There is no request to extend any of the existing buildings toward Park Avenue from its current location. The current additions of the building located on the HR-2 portion of the development were built before this specific regulation and *therefore is considered legal non-compliant*. Any new residential structures built on Lots 2 and 3 will have to comply with all HR-2 setbacks and requirements.

3. *All Buildings within the HR-2 portion of the development must meet the Building Height requirements of the HR-2 District as stated in Section 15-2.3-6.*

There is no request to extend any of the existing buildings toward Park Avenue from its current location. The current additions of the building located on the HR-2 portion of the development were built before this specific regulation and therefore is considered legal non-compliant. Any new residential structures built on Lots 2 and 3 will have to comply with HR-2 height requirements

4. *Existing and new Structures fronting on Park Avenue may not contain Commercial Uses, except as permitted in Section 15-2.3-8 (B) (1).*

The current additions of the building located on the HR-2 portion of the development were built before this specific regulation and therefore is considered legal non-compliant. No new structures are requested at this time.

5. *A Floor Area Ratio of 4.0 shall be used to calculate the total Commercial Floor Area.*

Only the Lot Area within the HCB Lot may be used to calculate the Commercial Floor Area.

The Claimjumper Building site is current in Main Street Parking Special Improvement District and therefore is exempt from the parking requirement.

- 6. The number of residential units allowed on the HR-2 portion of the Development is limited by the Lot and Site Requirements of the HR-2 District as stated in Section 15-2.3-4.*

The two (2) proposed lots on the HR-2 portion of the development comply with the lot and site requirements such as lot size and width, etc.

- 7. All entrances and Access, including service and delivery, for the Commercial Use must be off of a Street or easement within the HCB District. The Commercial Structure must be designed to preclude any traffic generation on residential Streets, such as Park Avenue. Any emergency Access, as required by the Uniform Building Code (UBC), onto the HR-2 portion of the Property must be designed in such a manner as to absolutely prohibit non-emergency Use. Alarms shall be installed on all emergency doors that provide access to Park Avenue.*

The plat amendment complies with this requirement as no access is proposed from Park Avenue including service and delivery. The proposed plat reduces the number of parking spaces from ten (10) to two (2) for the exclusive use of the residential units and not for the commercial use of the site. Staff recommends adding a condition of approval that the existing parking lot be removed as proposed before the plat is recorded.

- 8. Commercial portions of a Structure extending from the HCB to the HR-2 District must be designed to minimize the Commercial character of the Building and Use and must mitigate all impacts on the adjacent Residential Uses. Impacts include such things as noise, odor and glare, intensity of activity, parking, signs, lighting, Access and aesthetics.*

The plat amendment does not include the any addition extension from the HCB to the HR-2 District. The current additions of the building located on the HR-2 portion of the development were built before this specific regulation and therefore are considered legal non-compliant.

- 9. No loading docks, service yards, exterior mechanical equipment, exterior trash compounds, outdoor storage, ADA Access, or other similar Uses associated with the HCB Uses are allowed within the HR-2 portion of the Property, and all such Uses shall be screened for visual and noise impacts.*

The plat amendment complies with this requirement as no loading docks, service yards, exterior mechanical equipment, exterior trash compounds, outdoor storage, ADA access, or similar use associated with the HCB use are being proposed.

10. The Property Owner must donate a Preservation Easement to the City for any Historic Structures included in the Development.

Staff recommends that a condition be added so that the property owner donates a preservation easement to the City for the Historic Structure before the plat is recorded.

11. Any Historic Structures included in the development shall be restored or rehabilitated according to the requirements of the LMC Chapter 11- Historic Preservation.

The applicant submitted a Historic District Design Review application for systems upgrade including structural stability which has been approved per LMC Chapter 11.

12. Any adjoining Historic Structures under common ownership or control must be considered a part of the Property for review purposes of the Conditional Use permit and/or Master Planned Development.

There are no adjoining historic structure under common ownership or control that would trigger a CUP or MPD review.

13. The allowed Building Width of any Structure above Final Grade is up to forty (40) feet. Building Widths shall reflect the typical variation, pattern and Historic character of the surrounding residential neighborhood.

There is no request to extend any of the existing building toward Park Avenue from its current location. The current additions of the building located on the HR-2 portion of the development were built before this specific regulation and therefore is considered legal non-compliant.

14. Residential Density transfers between the HCB and HR-2 Zoning Districts are not permitted. A portion of the Gross Floor Area generated by the Floor Area Ratio of the HCB Zoning District and applied only to Lot Area in the HCB Zone, may be located in the HR-2 Zone as allowed by this Section.

There is no request to transfer any residential density. The current additions of the building located on the HR-2 portion of the development were built before this specific regulation and therefore is considered legal non-compliant.

15. Maximum allowed Building Footprint for the HR-2 Lot is subject to Section 15-6-5(B).

The proposed Park Avenue lots building footprint will comply with this regulation.

Furthermore, in June 2007 the property owner of that time executed a Covenant Not To Build. See Exhibit F - Recorded Covenant Not to Build. As indicated on this recorded document the property owner agreed not to build on certain portions of the property identified as the "No-Build Portion" area. These areas are the building additions over

the HR-2 District identified throughout this staff report as Park Avenue lots encroachments.

Code Enforcement Issues

At the April 25, 2012 meeting, Mr. Tesch clarified that as citizens, his clients were happy about the Claimjumper and believed the applicant was doing the right thing. However, they had concerns regarding neighborhood impacts and impacts to Old Town in general.

Staff recognizes that Claimjumper site can be difficult to manage and that the City has received many complaints with the Building Department's Code Enforcement Officers as shown below:

Complaint	Date of Complaint	Status	Issue
Removing covered walkway.	3/26/2008	Closed, 3/26/08	Covered walkway was temporarily required for construction and then removed.
Commercial activity on Park Avenue during Sundance.	4/22/2011	Closed, 6/14/12	Activity was already completed and a letter was sent to the responsible party advising them of the concern of a violation
Dust and dirt on the backside of building (Park) that should be covered.	10/18/2011	Closed, 10/31/11	Dirt was placed in the parking lot during excavation, dirt was required to be cleaned up.
Sundance-Park Avenue access.	1/25/2012	Closed, 6/14/12	Sundance 2012 complaints regarding Park Avenue access. Proper communication has been implemented between special events coordinator, code enforcement officer, and Planning Department.
Commercial activity in residential zone, unloading out of event onto Park Ave	1/26/2012	Pending	Citation issued to tenant.
Construction site using a lot on Park Ave.	4/10/2012	Closed, 6/14/12	Construction activity utilizing the lot to the north- removed construction material from site and obtained agreement from neighboring property owner.
Working beyond the scope of	4/23/2012	Pending	Construction Plans red-lined

the permit.			to show the additional construction work on the rear of the structure.
-------------	--	--	--

Good Cause

Staff finds good cause for this plat amendment as the historic structure will no longer encroach on the rear lots and the Park Avenue lots will be combined to meet the minimum lot area. The proposed plat amendment will also eliminate two (2) remnant parcels, portion of Lot 19 and a portion of Lot 28. There are no remnant parcels created with this plat amendment request. Additionally, the proposed use and renovation of the building will provide an adaptive reuse to one of Park City’s most historically significant building ensuring its use into the future and a parking easement is provided for the residential uses within the historic building.

Process

The applicant will have to submit a Historic District Design Review application for new construction on Lots 2 and 3, and any improvements on the three (3) lots. HDDR applications are reviewed administratively by the Planning Department. The approval of this plat amendment application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC 1-18.

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published in the Park Record according to requirements of the Land Management Code.

Public Input

Staff has received general inquiries about the proposed plat amendment. Public input has also been received. See Exhibit E, G & J.

Alternatives

- The Planning Commission may forward positive recommendation to the City Council for the 573 Main Street - A Three Lot Subdivision Plat Amendment as conditioned or amended; or
- The Planning Commission may forward a negative recommendation to the City Council for 573 Main Street - A Three Lot Subdivision Plat Amendment and direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion on 573 Main Street - A Three Lot Subdivision Plat Amendment to a date certain and request specific information be provided in order to make a recommendation.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The historic building would remain as is and no additional construction could take place across the existing lot lines. Construction includes interior remodeling of the historic building for adaptive reuse.

Recommendation

Staff recommends the Planning Commission hold a public hearing for 573 Main Street - A Three Lot Subdivision Plat Amendment, and forward a positive recommendation to the City Council based on the findings of fact, conclusions of law, and conditions of approval as found in the draft ordinance.

Exhibits

Exhibit A - Draft ordinance with Attachment 1 - Proposed Plat Amendment

Exhibit B - Site Survey

Exhibit C - Vicinity Map

Exhibit D - County Plat Map

Exhibit E - Public Input - Joe Tesch

Exhibit F - Recorded Covenant Not to Build

Exhibit G - Public Input - Additional

Exhibit H - Applicant Response

Exhibit I - Response to Applicant Response

Exhibit J - Public Input, requested conditions of approval - Joe Tesch

Draft minutes from the June 27, 2012 are attached in the meeting packet for adoption.

Exhibit A – Draft Ordinance No. 12-

**AN ORDINANCE APPROVING THE 573 MAIN STREET A THREE LOT
SUBDIVISION PLAT AMENDMENT LOCATED AT 573 MAIN STREET, PARK CITY,
UTAH.**

WHEREAS, the owners of the property located at 573 Main Street, All of Lots 16, 17, 18, 29, 30, 31 and the South 19 feet of Lot 19 and the Southerly 18.98 feet of the Easterly 20 feet of Lot 28, Block 9, PARK CITY SURVEY, AMENDED, according to the official plat thereof on file and of the record in the Summit County Recorder's Office. PC-133, have petitioned the City Council for approval of the 573 Main Street - A Three Lot Subdivision Plat Amendment; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on April 25, 2012, to receive input;

WHEREAS, the Planning Commission, on June 27, 2012, forwarded a recommendation to the City Council; and,

WHEREAS, on July 12, 2012, the City Council conducted a public hearing on the 573 Main Street - A Three Lot Subdivision Plat Amendment; and

WHEREAS, it is in the best interest of Park City, Utah to approve the plat amendment.

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

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The plat amendment as shown in Attachment 1 is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 573 Main Street and 564 & 572 Park Avenue.
2. This is a request to reconfigure six (6) Old Town lots and portions of two lots into three (3) lots of record through a plat amendment request.
3. The entire area is identified with Summit County as parcel no. PC-133.
4. Proposed Lot 1 located off Main Street consists of the site of the Claimjumper building.
5. Proposed Lots 2 and 3 located off Park Avenue consists of two residential lots.
6. The owner desires to remodel the interior walls to create a night club/bar/restaurant

on the basement level, a restaurant with a lobby for access to the living units above on the main level, and the two (2) upper levels for residential use with one (1) living unit on each floor.

7. The Main Street lots are currently within the HCB District.
8. The Park Avenue lots are currently within the HR-2 District.
9. The Claimjumper Hotel building is located on the property and was constructed across existing property lines.
10. The Historic Site Inventory (HSI) identifies the site as a landmark site.
11. The site is listed in the National Register of Historic Places.
12. The property fronts on, and receives legal access from Main Street.
13. The Park Avenue lots currently contain an asphalt parking lot with a concrete gutter.
14. The asphalt parking area is not striped with room for ten (10) parking spaces.
15. The Park Avenue lots also contains portion of the current Claimjumper Building consisting of a newer wooden structure with a walkway, covered entry, and stairs.
16. In March 2007 the Historic Preservation Board (HPB) determined that the structure contained additions that were added in 1987 that were not historically significant.
17. In April 2007 the City Council approved a single lot subdivision over the historic structure, Main Street lots only. This approval was voided because the conditions of approval were not met and the plat was not recorded within a year.
18. In June 2007 the Planning Department reviewed and approved a HDDR application to remove the non-historic additions and replace them with new additions including a roof addition of two (2) penthouse units.
19. The applicant did not meet the condition of approval of obtaining a building permit within a year's time from the approval date and the HDDR approval was voided because the approval expired.
20. In 2009 the City Council approved an ordinance approving amendments to the Land Management Code which changed the criteria for designation of historic sites.
21. The subject site was listed as a contributing building on the National Register of Historic Places in 1979 as part of the *Park City Main Street Historic District*.
22. The historic building was built within the historic period (1868-1929), is associated with the mining era, and retains its historic integrity.
23. The site meets the criteria set forth in LMC Chapter 15-11 in 2009 for designation as a Landmark Site.
24. The minimum lot area within the HCB is 1,250 square feet.
25. The proposed lot area for lot 1 is 8,999.8 square feet.
26. The minimum lot width within the HCB is twenty-five feet (25')
27. The proposed lot width for lot 1 is 94.97 feet.
28. The minimum lot depth within the HCB is fifty feet (50').
29. The proposed lot depth for lot 1 is 75 feet.
30. The proposed building pad equates to 1,101.5 square feet without the parking access easement. Due to the proposed parking easement on these two (2) lots the building pad would be furthered reduced by forty eight (48) square feet, totaling 1,053.5 square feet.
31. The maximum height envelope for the HCB District is thirty feet (30') at property line traversing at a forty-five degree (45°) angle back to a maximum of forty-five feet (45') above existing grade.

32. The existing historic building does not comply with the height envelope and therefore the building is a legal non-complying structure.
33. The existing rear additions to the historic building currently encroach onto the adjacent lots which front onto Park Avenue and are located within the HR-2 zoning district. They consist of a newer wooden structure with a walkway, covered entry, and stairs.
34. The proposed lots are reconfigured so that there are no improvements encroaching over the rear lot line.
35. All commercial access to the Claimjumper Building, 573 Main Street, will be off Main Street.
36. The minimum lot area within the HR-2 is 1,875 square feet.
37. The proposed lot area for lot 2 and 3 is 2,060.97 square feet.
38. The minimum lot width within the HR-2 is twenty-five feet (25')
39. The proposed lot width for lot 2 and 3 is 37.47 feet.
40. It has been estimated that the parking area was built between the late 1980's and early 1990's.
41. The parking area located rear of the building was built to accommodate the various uses in the Claimjumper Hotel building.
42. Currently the HR-2 District allows a *Residential Parking Area or Structure with greater than four (4) spaces* with a conditional use permit.
43. The existing ten (10) car parking area is non-conforming because it does not comply with the current regulation.
44. The property owner proposes to reconfigure the existing ten (10) car parking lot to an area to only consist of two (2) parking spaces total for the exclusive use of the residential units to be located within the Claimjumper interior remodel through a parking easement over the two (2) proposed Park Avenue lots.
45. The proposed parking easement is allowed in the HR-2 District.
46. The building footprint of the two Park Avenue lots will be limited to 917.8 square feet.
47. Each lot will require two (2) off-street parking spaces for their residential use.
48. In 1992 the Claimjumper Hotel building was being threatened with condemnation unless it could be brought up to acceptable safety level.
49. The 1992 the current property owner applied for design review of two (2) additions to the building for stairs, including the addition off the back, to be reviewed by the Historic District Commission (HDC).
50. In 1992 the Chief Building Official advised the HDC that if the additions could not be made to work, the building would have to be demolished.
51. In 1992 the HDC approved the proposed building improvements.
52. In 1992 four existing parking spaces will be lost with the proposed plan but the site plan called for additional parking on the Park Avenue side.
53. In 1992 a design review condition of approval indicated that the additions were to meet all other requirements of the Land Management Code and Building Code.
54. The HR-2 District was created from the HR-1 District in 2000.
55. In 1988 the City created the Historic Residential – Low Intensity Commercial Overlay (HR-2) District.
56. In this neighborhood when the HR-2 District was created in 2000 it changed the base zone from HR-1 to HR-2 and it removed both the HR-2 (Historic Residential

Low Intensity Commercial Overlay and HTO (Historic Transition Overlay) which were both overlay zones at the time.

57. The Claimjumper Building site is current in Main Street Parking Special Improvement District and therefore is exempt from the parking requirement.
58. The parking easement proposed to be dedicated with this plat amendment is for the benefit of the two proposed residential units in the 573 Main Street building.
59. The parking easement consists of two (2) parking spaces and a six foot (6') access straddling the shared common property line of the two (2) Park Avenue lots towards the Main Street lot.
60. The proposed parking area platted as an easement over lot 2 and 3 consist of legal parking space standards measuring nine feet (9') in width and eighteen feet (18') in length.
61. The existing parking lot shall be removed by replacing the current parking surface with landscaping until the structures are built on the HR-2 Lots. A landscaping plan shall be approved by the City, but it shall be sufficient to clearly prohibit parking of any vehicles. The existing parking lot shall be removed prior to plat recordation.
62. The two (2) parking spaces in the HR-2 District shall have a lockable controlled access prohibiting parking of vehicle traffic beyond those spaces.
63. The easement from the two (2) parking spaces on the HR-2 to the HCB shall be for the use by occupants of the residential units only.
64. Only one private access door may exist from the HCB District to the HR-2 District lots. All other exists must be for emergency access only.
65. This plat amendment request complies with the special HR-2A requirements.
66. The development is not part of a Master Planned Development (MPD).
67. There is no request to extend any of the existing buildings toward Park Avenue from its current location.
68. The current additions of the Claimjumper building located on the HR-2 portion of the development were built before this specific regulation and therefore is considered legal non-compliant.
69. The plat amendment complies with this requirement as no access is proposed from Park Avenue including service and delivery.
70. The proposed plat reduces the number of parking spaces from ten (10) to two (2) for the exclusive use of the residential units and not for the commercial use of the site. Staff recommends adding a condition of approval that the existing parking lot be removed as proposed before the plat is recorded.
71. The plat amendment complies with this requirement as no loading docks, service yards, exterior mechanical equipment, exterior trash compounds, outdoor storage, ADA access, or similar use associated with the HCB use is being proposed.
72. Staff recommends that a condition be added so that the property owner donates a preservation easement to the City for the Historic Structure before the plat is recorded.
73. The applicant submitted a Historic District Design Review application which has been approved per LMC Chapter 11.
74. There is no adjoining historic structure under common ownership or control that would trigger a CUP or MPD review.
75. The current additions of the building located on the HR-2 portion of the development

were built before this specific regulation and therefore is considered legal non-compliant.

76. There is no request to transfer any residential density.
77. In June 2007 the property owner of that time executed a Covenant Not To Build over a specific area where the building encroaches over the HR-2 District.
78. There are many filed code enforcement issues at the subject site.
79. These complaints have been and are currently handled by the Building Department.

Conclusions of Law:

1. There is good cause for this plat amendment as the historic structure will no longer encroach on the rear lots and the Park Avenue lots will be combined to meet the minimum lot area. The proposed plat amendment will also eliminate a remnant parcel, portion of Lot 19 and Lot 29.
2. The proposed use and renovation of the building will provide an adaptive reuse to one of Park City's most historically significant buildings ensuring its use into the future.
3. As conditioned, the plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.
4. The plat amendment is consistent with the Park City Land Management Code HR-2A special requirements.
5. Neither the public nor any person will be materially injured by the proposed plat amendment.
6. Approval of the plat amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Modified 13-D sprinklers will be required for new residential construction along Park Avenue.
4. A 10 foot wide public snow storage easement shall be provided along Park Avenue.
5. The parking easement on Lots 2 and 3 for the benefit of Lot 1 is only permitted to be used for the residential units. The parking easement shall not be used for commercial purposes.
6. The existing parking lot shall be removed by replacing the current parking surface with landscaping until the structures are built on the HR-2 Lots. A landscaping plan shall be approved by the City, but it shall be sufficient to clearly prohibit parking of any vehicles. The existing parking lot shall be removed prior to plat recordation. The landscaping requirement would not be imposed until after renovation is complete.
7. The two (2) parking spaces in the HR-2 District shall have a lockable controlled

- access prohibiting parking of vehicle traffic beyond those spaces.
8. The easement from the two (2) parking spaces on the HR-2 to the HCB shall be for the use by occupants of the residential units only.
 9. Only one private access door may exist from the HCB District to the HR-2 District lots. All other exists must be for emergency access only.
 10. The property owner shall donate a preservation easement to the City for the Historic Structure before the plat is recorded.
 11. The parking easement off Park Avenue shall be for the use of the residential units in Lot 1 only and noted on the plat.

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

PASSED AND ADOPTED this ____ day of _____, 2012.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, MAYOR

ATTEST:

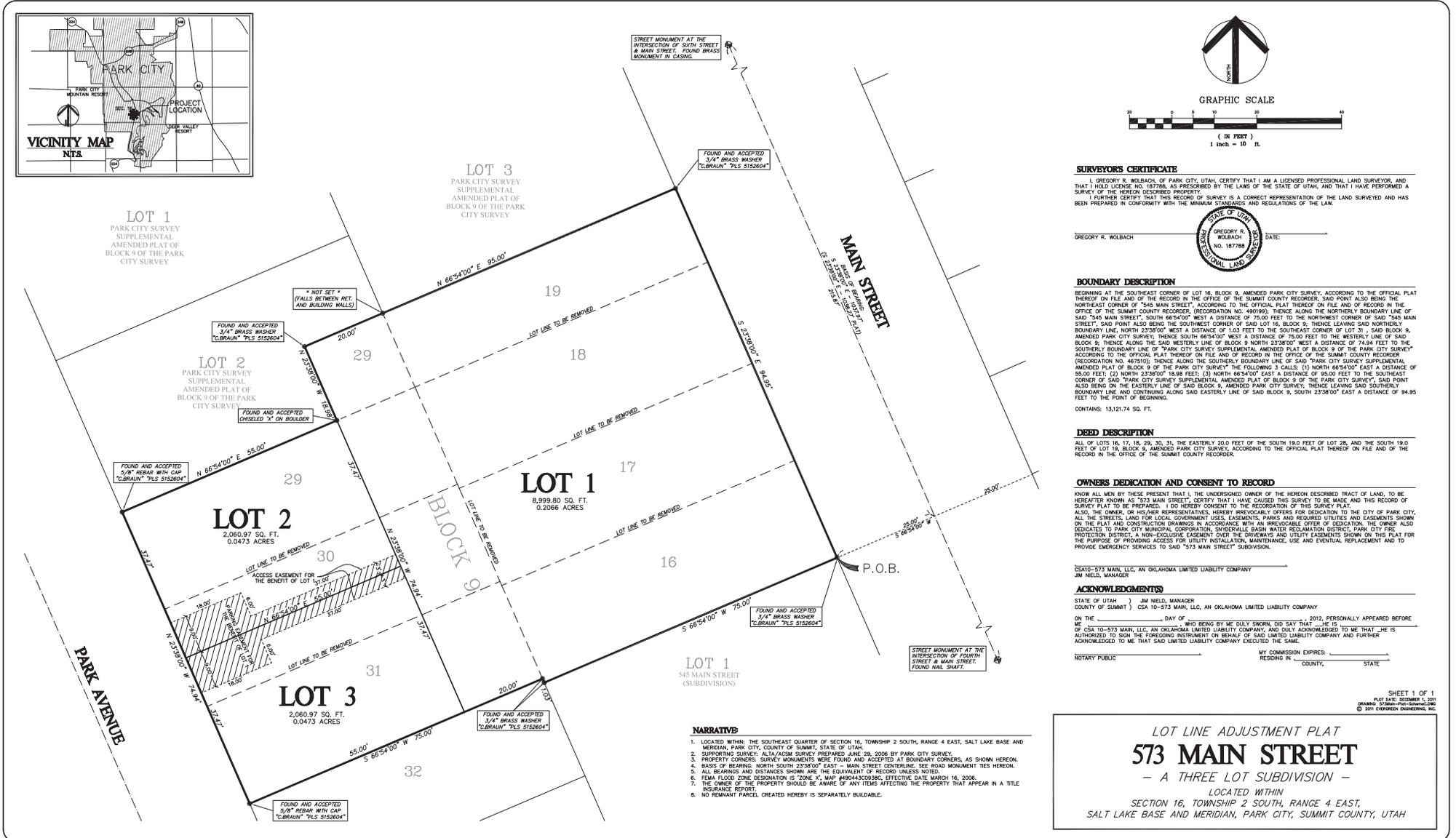
Jan Scott, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

Attachment 1 – Proposed Plat Amendment

Attachment 1 – Proposed Plat Amendment



SURVEYOR'S CERTIFICATE

I, GREGORY R. WOLBACH, OF PARK CITY, UTAH, CERTIFY THAT I AM A LICENSED PROFESSIONAL LAND SURVEYOR, AND THAT I HOLD LICENSE NO. 187768, AS PRESCRIBED BY THE LAWS OF THE STATE OF UTAH, AND THAT I HAVE PERFORMED A SURVEY OF THE HEREIN DESCRIBED PROPERTY.

I FURTHER CERTIFY THAT THIS RECORD OF SURVEY IS A CORRECT REPRESENTATION OF THE LAND SURVEYED AND HAS BEEN PREPARED IN CONFORMITY WITH THE MINIMUM STANDARDS AND REGULATIONS OF THE LAW.

GREGORY R. WOLBACH
DATE: _____

STATE OF UTAH
PROFESSIONAL LAND SURVEYOR
NO. 187768

BOUNDARY DESCRIPTION

BEGINNING AT THE SOUTHWEST CORNER OF LOT 16, BLOCK 9, AMENDED PARK CITY SURVEY, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF THE RECORD IN THE OFFICE OF THE SUMMIT COUNTY RECORDER, SAID POINT ALSO BEING THE NORTHEAST CORNER OF "545 MAIN STREET", ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE SUMMIT COUNTY RECORDER, (RECORDATION NO. 490199); THENCE ALONG THE NORTHERLY BOUNDARY LINE OF SAID "545 MAIN STREET", SOUTH 66°54'00" WEST A DISTANCE OF 75.00 FEET TO THE NORTHEAST CORNER OF SAID "545 MAIN STREET", SAID POINT ALSO BEING THE SOUTHWEST CORNER OF SAID LOT 16, BLOCK 9, THENCE LEAVING SAID NORTHERLY BOUNDARY LINE, NORTH 23°38'00" WEST A DISTANCE OF 1.03 FEET TO THE SOUTHWEST CORNER OF LOT 31, SAID BLOCK 9, AMENDED PARK CITY SURVEY, THENCE SOUTH 66°54'00" WEST A DISTANCE OF 75.00 FEET TO THE WESTERLY LINE OF SAID BLOCK 9, THENCE ALONG THE SAID WESTERLY LINE OF BLOCK 9 NORTH 23°38'00" WEST A DISTANCE OF 74.84 FEET TO THE SOUTHERLY BOUNDARY LINE OF "PARK CITY SURVEY SUPPLEMENTAL AMENDED PLAT OF BLOCK 9 OF THE PARK CITY SURVEY" ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE SUMMIT COUNTY RECORDER (RECORDATION NO. 467000); THENCE ALONG THE SOUTHERLY BOUNDARY LINE OF SAID "PARK CITY SURVEY SUPPLEMENTAL AMENDED PLAT OF BLOCK 9 OF THE PARK CITY SURVEY" THE FOLLOWING 3 CALLS: (1) NORTH 66°54'00" EAST A DISTANCE OF 56.00 FEET; (2) NORTH 23°38'00" WEST 18.88 FEET; (3) NORTH 66°54'00" EAST A DISTANCE OF 95.00 FEET TO THE SOUTHWEST CORNER OF SAID "PARK CITY SURVEY SUPPLEMENTAL AMENDED PLAT OF BLOCK 9 OF THE PARK CITY SURVEY", SAID POINT ALSO BEING ON THE EASTERLY LINE OF SAID BLOCK 9, AMENDED PARK CITY SURVEY, THENCE LEAVING SAID SOUTHERLY BOUNDARY LINE AND CONTINUING ALONG SAID EASTERLY LINE OF SAID BLOCK 9, SOUTH 23°38'00" EAST A DISTANCE OF 94.95 FEET TO THE POINT OF BEGINNING.

CONTAINS: 13,121.74 SQ. FT.

DEED DESCRIPTION

ALL OF LOTS 16, 17, 18, 19, 30, 31, THE EASTERLY 20.0 FEET OF THE SOUTH 19.0 FEET OF LOT 26, AND THE SOUTH 19.0 FEET OF LOT 19, BLOCK 9, AMENDED PARK CITY SURVEY, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF THE RECORD IN THE OFFICE OF THE SUMMIT COUNTY RECORDER.

OWNERS DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENT THAT I, THE UNDERSIGNED OWNER OF THE HEREIN DESCRIBED TRACT OF LAND, TO BE HEREINAFTER KNOWN AS "573 MAIN STREET", CERTIFY THAT I HAVE CAUSED THIS SURVEY TO BE MADE AND THIS RECORD OF SURVEY PLAT TO BE PREPARED. I DO HEREBY CONSENT TO THE RECORDATION OF THIS SURVEY PLAT.

ALSO, THE OWNER, OR HIS/HER REPRESENTATIVE(S), HEREBY REQUESTS FOR DEDICATION TO THE CITY OF PARK CITY, UTAH, ALL THE STREETS, LAND FOR LOCAL GOVERNMENT USES, EASEMENTS, PARKS AND REQUIRED UTILITIES AND EASEMENTS SHOWN ON THE PLAT AND CONSTRUCTION DRAWINGS IN ACCORDANCE WITH AN PREVIOUS ORDER OF DEDICATION. THE OWNER ALSO DEDICATES TO PARK CITY MUNICIPAL CORPORATION, SNYDERVILLE BASIN WATER RECLAMATION DISTRICT, PARK CITY FIRE PROTECTION DISTRICT, A NON-EXCLUSIVE EASEMENT OVER THE UNDERSIGNED AND UTILITY EASEMENTS SHOWN ON THIS PLAT FOR THE PURPOSE OF PROVIDING ACCESS FOR UTILITY INSTALLATION, MAINTENANCE, USE AND EVENTUAL REPLACEMENT AND TO PROVIDE EMERGENCY SERVICES TO SAID "573 MAIN STREET" SUBDIVISION.

573-10-573 MAIN, LLC, AN OKLAHOMA LIMITED LIABILITY COMPANY
JIM NEELD, MANAGER

ACKNOWLEDGMENTS

STATE OF UTAH) JIM NEELD, MANAGER
COUNTY OF SUMMIT) CSA 10-573 MAIN, LLC, AN OKLAHOMA LIMITED LIABILITY COMPANY

ON _____ DAY OF _____, 2010, PERSONALLY APPEARED BEFORE ME _____, WHO BEING BY ME DULY SWORN, DID SAY THAT _____ HE IS OF 573-10-573 MAIN, LLC, AN OKLAHOMA LIMITED LIABILITY COMPANY, AND DULY ACKNOWLEDGED TO ME THAT HE IS AUTHORIZED TO SIGN THE FOREGOING INSTRUMENT ON BEHALF OF SAID LIMITED LIABILITY COMPANY AND FURTHER ACKNOWLEDGED TO ME THAT SAID LIMITED LIABILITY COMPANY EXECUTED.

NOTARY PUBLIC _____ MY COMMISSION EXPIRES: _____
RESIDING IN _____ COUNTY, STATE _____

SHEET 1 OF 1
PLAT FILED: OCTOBER 1, 2011
DRAWN: 07/24/11; PFC-DONALD.L.200
© 2011 EVERGREEN ENGINEERING, INC.

- NARRATIVE**
1. LOCATED WITHIN: THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN, PARK CITY, COUNTY OF SUMMIT, STATE OF UTAH.
 2. SUPPORTING SURVEY: ALTA/ACM SURVEY PREPARED, JUNE 29, 2006 BY PARK CITY SURVEY.
 3. PROPERTY CORNERS: SURVEY MONUMENTS WERE FOUND AND ACCEPTED AT BOUNDARY CORNERS, AS SHOWN HEREON.
 4. BASIS OF BEARING: NORTH SOUTH 23°38'00" EAST - MAIN STREET CENTERLINE, SEE ROAD MONUMENT TIES HEREON.
 5. ALL BEARINGS AND DISTANCES SHOWN ARE THE EQUIVALENT OF RECORD UNLESS NOTED.
 6. FEMA FLOOD ZONE DESIGNATION IS ZONE X; MAP PARANATMOSISIC, EFFECTIVE DATE MARCH 16, 2006.
 7. THE OWNER OF THE PROPERTY SHOULD BE AWARE OF ANY ITEMS AFFECTING THE PROPERTY THAT APPEAR IN A TITLE INSURANCE POLICY.
 8. NO REMNANT PARCEL CREATED HEREBY IS SEPARATELY BUILDABLE.

Evergreen Engineering, Inc.

Civil Engineering • Land Surveying • Land Planning
1670 Business Drive • Suite 104
P.O. Box 2861 • Park City, Utah • 84060
Phone: (435) 648-1667 • Fax: (435) 648-9219
E-mail: office@evergreen-eng.com

CITY ENGINEER

THIS PLAT IS IN CONFORMANCE WITH INFORMATION ON FILE IN THE OFFICE OF THE PARK CITY ENGINEERING DEPARTMENT ON THIS _____ DAY OF _____ A.D. 2012.

CITY ENGINEER _____

SNYDERVILLE BASIN W.R.D.

REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____ A.D. 2012.

BY: _____
SNYDERVILLE BASIN WATER RECLAMATION DISTRICT

CITY PLANNING COMMISSION

APPROVED AND ACCEPTED BY THE PARK CITY PLANNING COMMISSION ON THIS _____ DAY OF _____ A.D. 2012.

CHAIRMAN _____

APPROVAL AS TO FORM

APPROVED AS TO FORM ON THIS _____ DAY OF _____ A.D. 2012.

CITY ATTORNEY _____

CITY COUNCIL APPROVAL

PRESENTED TO THE BOARD OF PARK CITY CITY COUNCIL THIS _____ DAY OF _____ A.D. 2012 AT WHICH TIME THIS RECORD OF SURVEY WAS APPROVED.

MAYOR _____
CITY RECORDER _____

RECORDED

NO. _____
STATE OF _____
COUNTY OF SUMMIT
RECORDED AND FILED AT THE REQUEST OF: _____

COUNTY RECORDER _____

573 Main Street - A Three Lot Subdivision Vicinity Map



Legend

- Parcels
- Streets

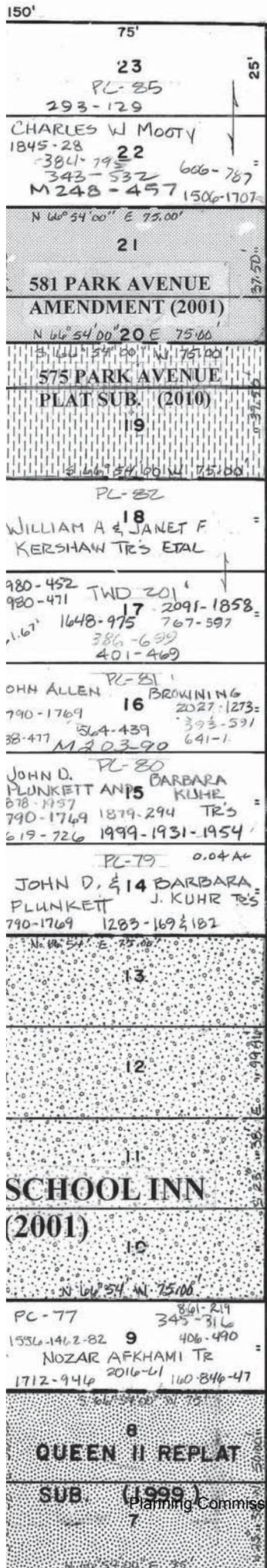
Planning Commission - July 11, 2012



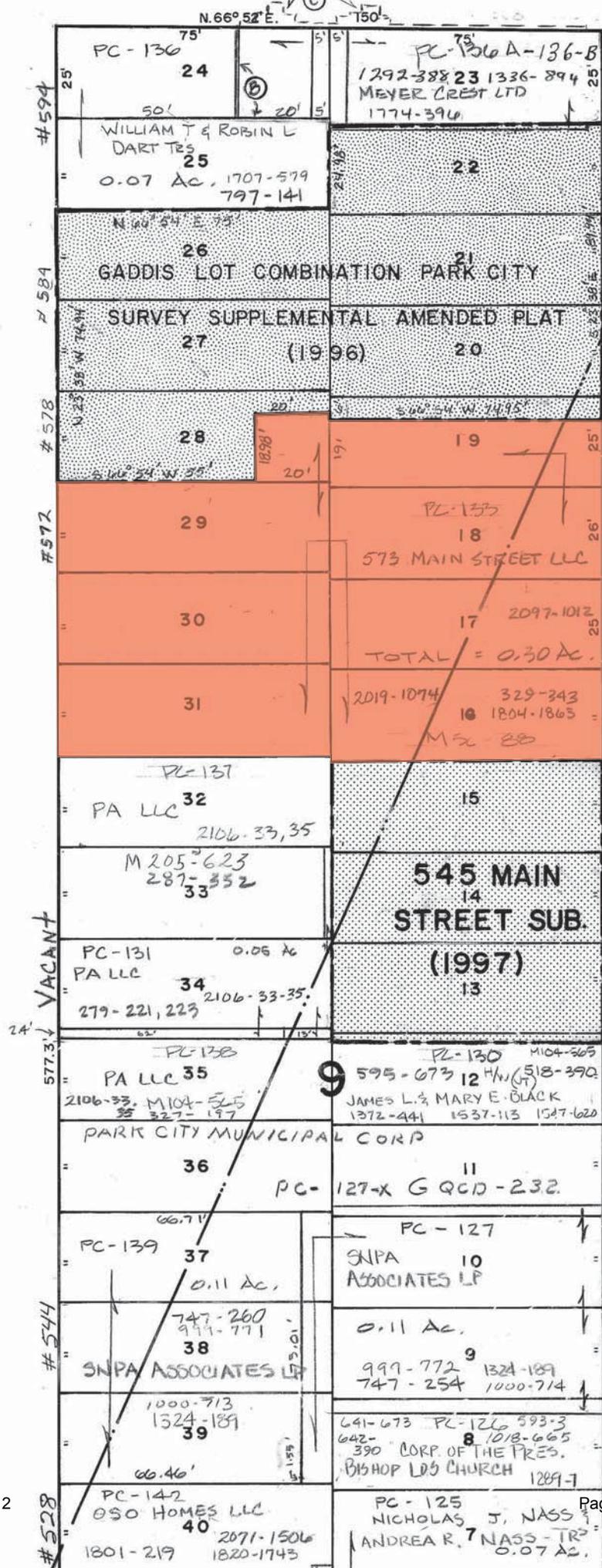
STREET

60TH STREET

Exhibit D - County Plat Map



PARK AVENUE (N 23°38' W)



SEE 1336-894 PURPORTS TO CONVEY PART OF 60TH STREET

MAIN STREET (N 23°38' W)



PARK CITY

314 Main Street, Suite 200
P.O. Box 3390
Park City, Utah 84060-3390
Telephone: (435) 649-0077
Facsimile: (435) 649-2561

SALT LAKE CITY

Telephone: (801) 363-5111

HEBER CITY

2 South Main Street, Suite 2-D
Heber City, Utah 84032
Telephone: (435) 654-1550
Facsimile: (435) 654-1554

April 25, 2012

Park City Planning Commission

RE: PLAT AMENDMENT 573 MAIN STREET AND 572 PARK AVENUE (CLAIMJUMPER)

Dear Planning Commission Members:

All you have to do here is your job—Protect Old Town.

I represent several homeowners who live on Park Avenue in the HR-2 Zone and whose residences are directly impacted by this proposed plat amendment. See Exhibit A attached.

My clients are cognizant of the benefits to Main Street vitality which may be brought about by the new commercial uses proposed and they applaud that effort.

However, an equally important objective of the Land Management Code (“LMC”) is to protect Old Town and preserve its residential flavor. In fact, listed as one of the purposes of the HR-2 Historic Residential District is:

“encourage and promote Development that supports upper Park Avenue as a pedestrian friendly residential street...that is compatible with the historic character of the surrounding residential neighborhood.”

Fortunately, this objective can be met, and it doesn't require, nor is there good cause, for this proposed plat amendment. except to clean up the lot lines beneath the historic building in the HCB zone, on Main Street and that would require a new application.

A. NO GOOD CAUSE EXISTS

Some history is in order. Attached hereto as Exhibit B is a photograph of most recent use of the HR-2 lot behind the Claimjumper as photographed during this year's Sundance Film Festival. Hardly compatible with the purposes of the HR-2 zone and a true erosion of the residential quality of life for my clients. Everything you see in this photo is expressly prohibited in the HR-2 zone. For the last two Sundance festivals, the Applicant has turned the building into a night-club called the Bing Bar, and used the building's rear entrance for deliveries during the day, as shown in the photo. At night though, the rear, emergency-only exit becomes a vip-only entrance, complete with guards, a line of limos, and a velvet rope. Attached as Exhibit C is a

photo of what the HR-2 code requires to be a single, emergency-only, Exit door, with an alarm on it. It is apparent that the Applicant views these double-doors as an entrance to the Bing Bar, regardless of any zoning regulation that prohibits use of the door.

You could say that 10 days a year for Sundance is ok, and for the most part my clients have tried to live with it for those two weeks. But now the Applicant says they want to turn this into a year-round situation, with a 'bar/nightclub' in the basement, a 'restaurant/special event space' on the main floor, and two full-floor, open plan living spaces on the top two floors, both of which could easily be used for events in the same way as the rest of the building, and in much the way that the Applicant has tried to use the entire building for the last two Film Fests. In short what is being proposed here is a lot like the Harry O's nightclub up the street, that caused so much trouble for the City and the Historic District's residents, for so many years. While the Applicant may have a right to these Uses in the HCB, on Main Street, these same uses are prohibited in HR-2, on Park Ave. The proposed plat amendment is likely to continue to enable these abuses and code enforcing is severely stretched during Sundance.

Also attached hereto as Exhibit D is the proposed plat site plan, but color coded to show the following:

1. The heaviest red line is the most easterly lot line of lots 16, 17 and 18 in the HBC zone. It is also the line which defines the two zones.
2. The pink structure is the historic brick building which is the Claimjumper (the "Historic Building").
3. The cross-hatched blue line is an addition made to the Historic Building in 1992 (the "1992 Addition"), but it is not part of the Historic Building and it can and should be eliminated as part of this renovation. As noted below, in the spring of 2007, the City Approved similar applications with the requirement that the non-historic additions be removed.

If the 1992 Addition is eliminated, there is no impact on the commercial uses, it eliminates the abuses shown as Exhibit B, it eliminates the need for any plat amendments between the HCB and HR-2 zones, and it preserves the three current historic sized lots in the HR-2 zone for future compatible residential development.

As proof that the 1992 addition is not part of the Historic Building, we need only look to two sources:

- a. The Staff Report. As set forth on page 76 of the Staff Report in the "Additional background" section, in March 2007 the Historic Preservation Board made a determination that the additions to the Historic Building made were not historically significant.

In April 2007 “the City Council approved a similar request being reviewed today... The Applicant did not meet the condition of approval of removing the non-historic additions...” Therefore the plat amendment expired [and was not “voided” as set forth in the Staff Report].

In June of 2007 the Planning Department again reviewed and approved a Historic District Design Review Application to remove the non-historic additions and replace them. This approval also expired.

So, on three separate occasions the 1992 Additions were ruled to be not part of the Historic Building.

- b. The minutes of the approval of the 1992 Addition. Attached hereto are the minutes of the Historic District Commission for October 5, 1992, as Exhibit E. They deserve to be read in full. However, what is very clear is that the 1992 Addition was approved for the singular purpose of preserving the Historic Building from demolition since the then owner was without the financial resources necessary: “Jacquie Cote interjected that Mr. Ivie had advised the Historic District that if these additions cannot be made to work, the building will go.”

This is no longer the case. The current Applicant has fixed the building so that it can now accommodate access inside the Historic Building for all four floors. Indeed, there is an elevator servicing all four floor and inside stairways are easily included in future building plans.

In short, there is no justification for a plat amendment that encroaches into the HR-2 lots, since only the 1992 addition, the non-historically significant addition, needs to be removed to cure the non-conforming encroachment onto the HR-2 lots.

The fact that the Applicant voluntarily chooses not to remove those non-historically significant additions, do not create “good cause” for approving the requested plat amendment. The encroachment is self imposed and unnecessary.

- B. The proposed plat amendment creates lots which do not meet the minimum lot size of 1875 sq. ft.

To begin with, we believe that the Staff Report is in error when it concluded that the requested plat amendment is not subject to HR-2A Sub-A and its requirements. It incorrectly concludes that this plat amendment does not combine a Main Street HBC lot with an adjacent HR-2 zoned lot for the purpose of restoring an historic structure. In fact, that is the only purpose and the proposed plat amendment incorporates parking on the HR-2 lots in order to convert the upper two floors to residential use—what could be more clear? See LMC §15-23-8.

Here simple logic takes over. HR-2 lots require a minimum of 1,875 sq. ft. Residential uses in the HRC require two parking spaces per unit, or a minimum of 4 spaces. Each parking space must be a minimum of 9' x 18' which computes to 162 sq. ft. each or 324 sq. ft for two. 2,060.75 sq. ft. (see proposed size of the two HR-2 lots) minus 324 sq. ft. = 1,736.75 sq. ft, a non conforming lot.

Why this computation? Clearly the new residential uses require two parking spaces each. See LMC §§15-23-2 (A) and (B) and 15-3-6. This is a requirement and not simply some sort of voluntary act by the Applicant as alluded to in the Staff Report. The LMC also requires each space to be a minimum of 9' x 18', not 9' x 12' as proposed by the Applicant.

The fact that the Applicant uses an easement for parking spaces rather than including those spaces in the historic lot should be seen for what it is—somewhat of a slight-of-hand. In fact, a permanent parking easement removes that property from the underlying lot just as effectively as a deed transferring that property. Therefore, while the newly proposed lots 2 and 3 may show 2,060.75 sq. ft, the truth is they, in the real world, are only effectively 1,736.75 sq. ft.—insufficient.

In short, you should not allow these technically adequate, but in practical terms inadequate sized lots to provide good cause for approval.

Moreover, the three current 25 feet by 75 feet sized lots are the preferable size for building lots if we are to preserve Old Town., and uphold the goals of our own HR-2 zoning.

C. This approval appears perhaps greased and it should be continued. Sometimes requested approvals seem a bit greased so that your approval is solicited by Staff rather than supported by solid facts and certain analysis intended to engage your best reasoning, judgment and reflection over time. That may be occurring here. Several unusual deferences to the Applicant and errors in the Staff Report point in this direction, some of which are the following:

1. The Staff Design Review Summary dated November 2, 2011, concludes as a Finding of Fact the following: “7. A plat amendment combining these multiple lots will be required prior to building permit issuances.” However, a building permit was issued without the plat amendment and work on that permit has progressed for several months. See recent photo of work in progress as Exhibit F attached.
2. In my experience, it is only after my clients receive Planning Commission action that the matter is then scheduled on the City Council Agenda. Here Staff is so overly confident of your approval that it has already scheduled for it final action by the City Council on the May 17, 2012 agenda. Why is this being rushed without sufficient time for analysis and reflection?

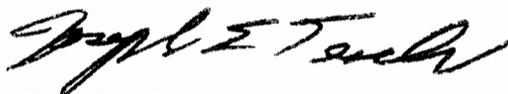
3. Lip service has been given that the Applicant desires to work with its neighbors. But those words are empty. Working with the neighbors would have occurred before the requested plat amendment was filed and before a building permit was issued, not after.
4. The Staff Report (“Report”) is slanted and full of errors.
 - a. The Report wrongly concludes that the plat amendment is not governed by the HR-2 Sub-A requirements. It is subject to those code requirements.
 - b. In more than one place, the Report concludes that there are no structures on the HR-2 lots. As Exhibits F and G show (dark blue), this is incorrect. Moreover, the HR-2 lots have a nonconforming parking lot constructed around 1993-1994.
 - c. Staff has advised me that it cannot require the Applicant to remove the non-historic 1992 Addition that encroaches into the HR-2 lots. A different result occurred in the spring of 2007 when the City did require it and this discrepancy needs to be resolved.
 - d. Both the HBC and HR-2 zones permit only a single emergency-only exit door from the HBC to the HR-2 lots. The 1992 Addition has four (4) doors. Why?

CONCLUSION

No good cause exists for the requested plat amendment. All that has to happen is for the Applicant to construct its improvements in a way so that all of the pedestrian and parking traffic are funneled to Main Street. This is easy to do as the Historic Building is now in the process of reconfiguration including an elevator servicing all four floors and it can easily accommodate a stairway as a secondary emergency exit. Of course, as part of the approval process, the 1992 non-historic addition encroaching onto the HR-2 lots, now unnecessary, should be removed as should the nonconforming parking lot. Therefore, this Application should be denied as failing to demonstrate good cause.

However, if you are not yet ready to deny it, it should be continued for an additional public input meeting until these issues can be resolved.

Sincerely,
Tesch Law Offices, P.C.



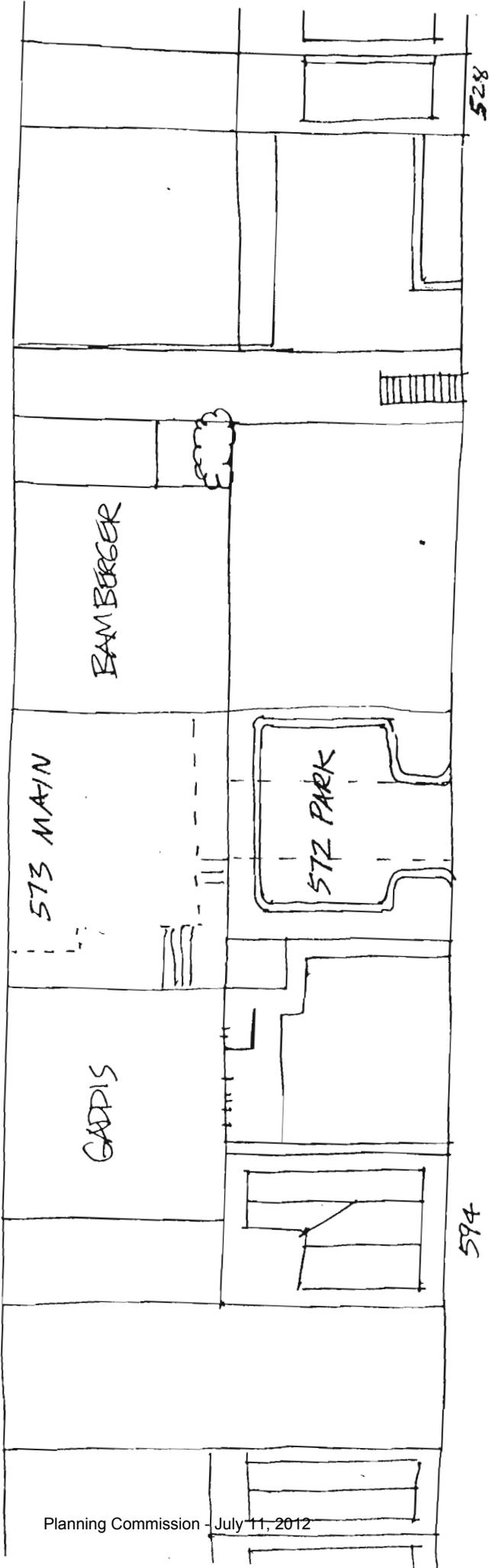
Joseph E. Tesch

JET/tw
Enclosures

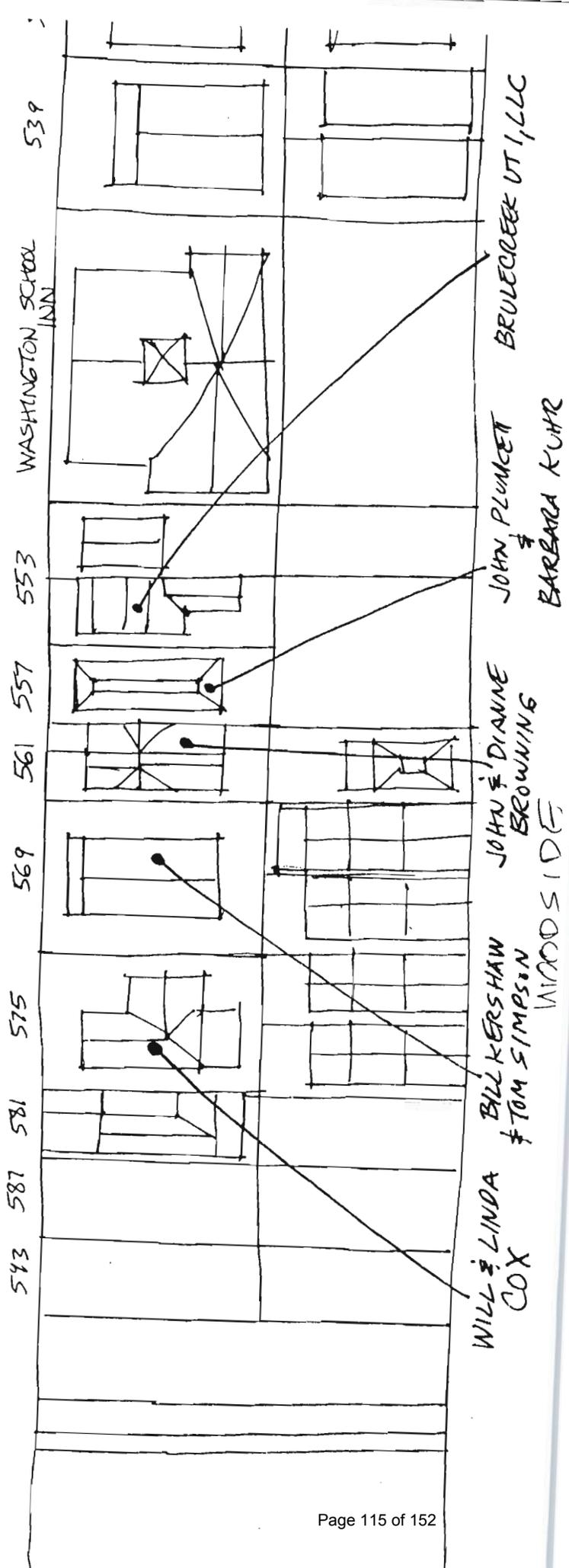
cc: Francisco Astorga
Polly Samuels McLean

EXHIBIT A

MAIN STREET



PARK AVENUE



WILL & LINDA COX
 BILL KERSHAW & TOM SIMPSON WOODSIDE
 JOHN & DIANNE BROWNING
 JOHN PLUMMET & BARBARA KUHR
 BRUCECREEK UT, LLC

EXHIBIT B



EXHIBIT C

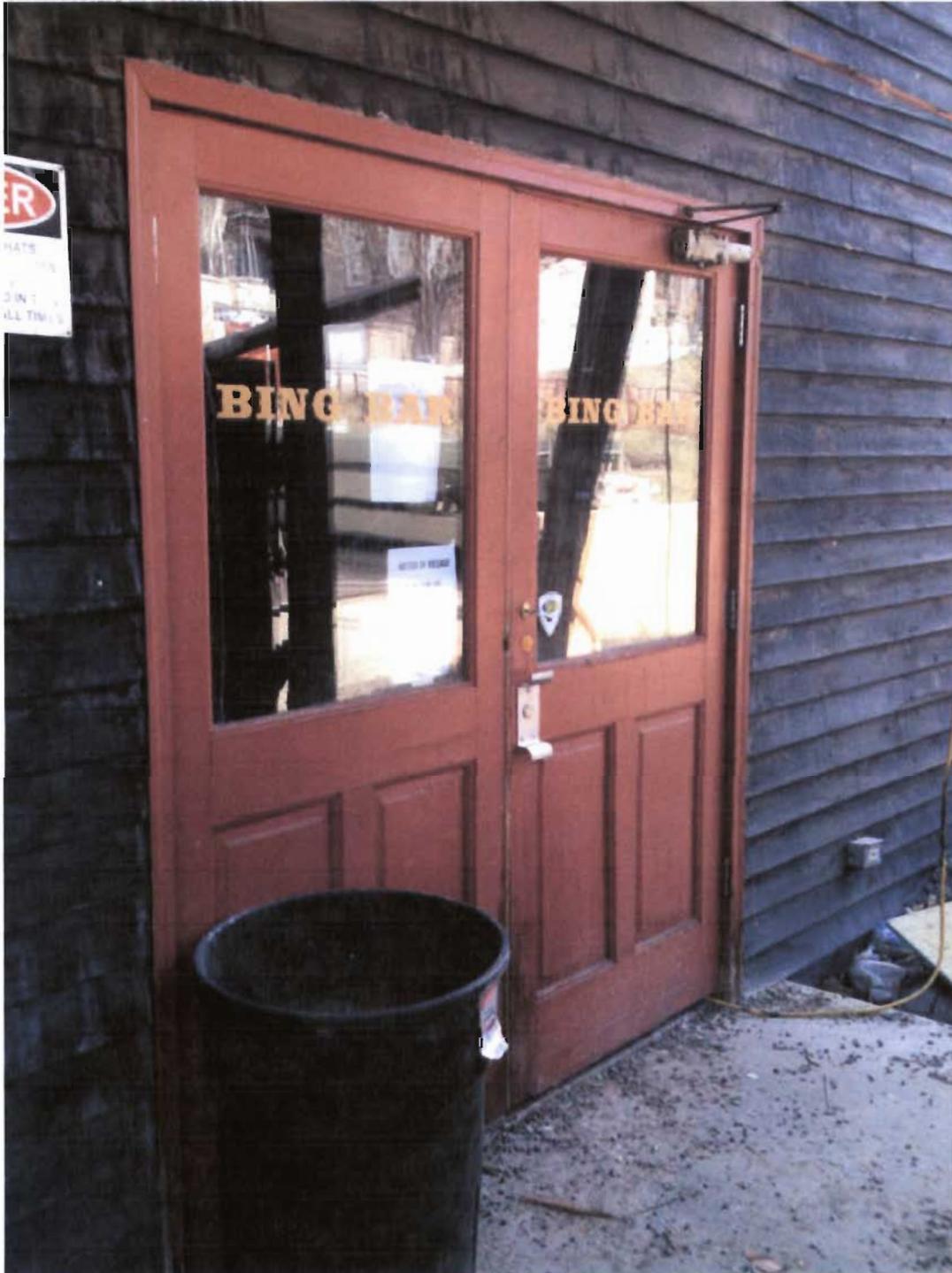
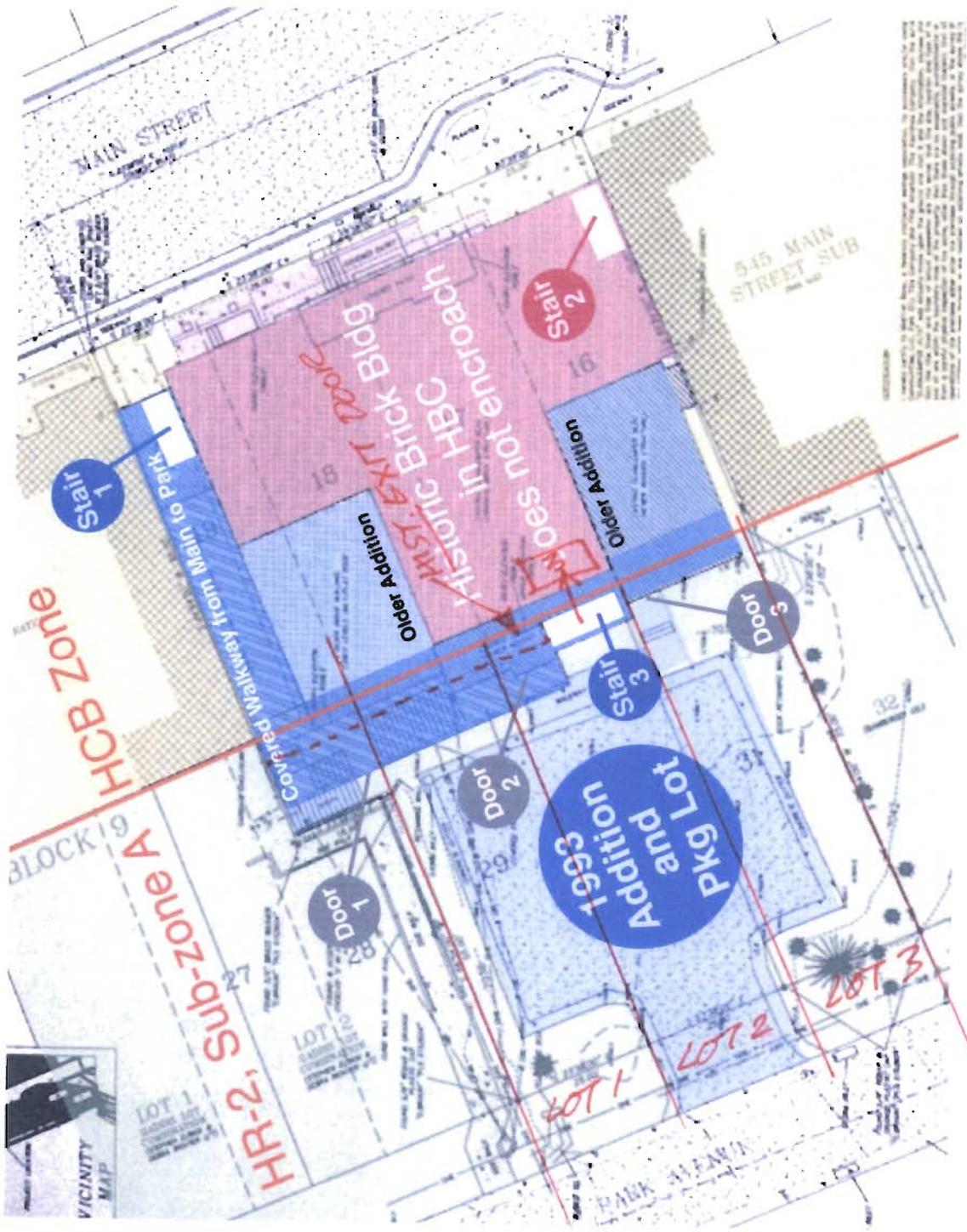


EXHIBIT D



THE CITY OF CHICAGO HAS REVIEWED THIS MAP AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE ZONING ORDINANCE. THE CITY ENGINEER HAS REVIEWED THIS MAP AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE CITY ENGINEERING CODE. THE CITY CLERK HAS REVIEWED THIS MAP AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE CITY CLERK'S CODE. THE CITY COMMISSIONER HAS REVIEWED THIS MAP AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE CITY COMMISSIONER'S CODE. THE CITY BOARD OF ZONING APPEALS HAS REVIEWED THIS MAP AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE CITY BOARD OF ZONING APPEALS' CODE. THE CITY BOARD OF ZONING APPEALS HAS REVIEWED THIS MAP AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE CITY BOARD OF ZONING APPEALS' CODE.

EXHIBIT E

Planner Lykes volunteered to call the applicants when an appraisal was received and emphasized that this should be ready for further review or a possible decision on October 19.

Since this was an update only no motion was required.

2. Continued design review of single family residence at 405 Ontario, Lance Kincaid

Planner Lykes reminded the HDC that, as pointed out in the packets, plans had not been received in time for this meeting so this application will be tentatively scheduled for October 19, 1992.

Chairperson Cote asked that Planner Lykes update Mr. Kincaid about where he is with his approvals so that he will know how to proceed if he waits until next year.

MOTION: David White moved to continue the design review of single family residence at 405 Ontario. Motion seconded by Chris Larson. Motion carried.

VI. NEW BUSINESS

1. Design review of renovation and addition at Claimjumper Hotel, 573 Main Street, Gary Accord

Planner Lykes commented that Chief Building Official Ron Ivie had come in during the work session that evening and updated the HDC on the history of this building and what is currently happening with it.

Planner McIntyre advised the HDC that Gary Accord had brought in revised plans which were slightly different from those in the packet. Planner McIntyre reminded the HDC that the building is being threatened with condemnation unless it can be brought up to an acceptable safety level.

Planner McIntyre stated that this application is for design review of two additions to the building for stairs. One addition is on the north side of the building, the other is on the back. Both additions are the result of life/safety requirements.

Jacque Cote interjected that Mr. Ivie had advised the HDC that if these additions cannot be made to work, the building will go.

Planner McIntyre reminded the HDC when she had reviewed this preliminarily with them, they had been concerned over the use of the siding materials and why brick could not be used to match the

existing exterior walls. Both Gary Accord and Ron Ivie agree that the building does not have the strength to accommodate brick.

Mr. Accord explained that it is a seismic issue. Sheer block tests were done on the walls to determine their strength in all directions. Brick veneer or masonry construction would add substantially more dead weight or mass to the building. Mr. Accord explained that much of the old plaster is being torn out of the upper two floors to eliminate dead weight.

Mr. Accord stated that the stair tower additions are wood frame with wood siding. The wood siding will be detailed to be reflective of the Main Street elevation.

A discussion followed prompted by Mr. White on whether the use of masonry would be impossible to use or prohibitively expensive to use. The owner is operating with a \$500,000 budget for structural improvements. Gary Accord commented that masonry could be used if costs were not a factor and in that case the back stair tower would need to be free-standing and the other have a seismic joint against the building so as not to further burden the existing structure. In response to Mr. White, Mr. Accord verified that the frame stairways will be fastened to the building.

Mr. Accord gave a brief description of the condition of the masonry around the building. He explained that sheer block tests had been done on the building to analyze the strength of the existing bricks. He advised that if the stair tower additions are wood-frame and they eliminate all of the old plaster, asbestos ceilings, and as much other dead weight and mass as is feasible, then the structural work inside the building will be to attach the floor diaphragms and the roof diaphragms to the exterior brick walls. This will make the exterior brick walls the sheer resisting elements in the building.

In response to Jacquie Cote, Mr. Accord advised that they will tuck-point the existing brick on the front of the building. The towers will be painted an accent color to match the accent brick which currently exists on the building.

Mr. Accord went over the various elevations with the HDC, explaining where the stair tower additions would be located. He explained that the second and third floors of the building would be used as office space.

Mr. Accord advised that the north side of the building is the only area where a stair tower can be constructed which goes from the basement to the top of the building. Not only will this give the upper levels of the building a main street access but will leave enough space for an elevator shaft for ADA requirements.

Historic District Commission
Meeting of October 5, 1992
Page 5

In response to Chairperson Cote, Mr. Accord stated that four existing parking spaces will be lost with this plan but the site plan calls for additional parking on the Park Avenue side.

Since there was no further discussion, Chairperson Cote asked for a motion.

MOTION: Chris Larson moved to approve the design for two stair additions for the Claimjumper Hotel at 573 Main Street with the following conditions:

1. The architectural details of the building shall match the existing in terms of colors, windows, and trim. Materials shall not be required to match, but will meet the requirements of the Building Code.
2. This approval is for design only. The additions shall meet all other requirements of the Land Management Code and Building Code.

Motion seconded by David White. Motion carried.

At approximately 6:00 PM the meeting was adjourned.

Approved: _____ Date: _____
Chairman

10/5.

1. Get clarification on vesting to HDC. when filed complete bldg permit app.
2. Notes to file:

< Ron re: Claim jumper:

2 years in negotiation of upgrade or condemnation structural & fire code upgrades = \$500,000.
He is satisfied public-safety-wise with what they are doing. Meets the "old building" codes. It built of masonry (stairs), economics is a problem - have already spent half million dollars. Frame vs. masonry = \$10,000 of dollars.

3. Juice hired.
4. Just conference
5. Work Session projects

Chris - demolition proactive - advertising -

- who are lot owners ~~interested~~ interested in moving in a house?

- groups which renovate.

Ⓐ ← do a mailing.

Ⓑ public service announcement.

Ⓒ loan guarantees / construction loans & in concert w/ employee housing / rent restrictions. formalize the process.

Jacqui

Ⓐ ~~landmark~~ landmark bldgs. protection
Uxaru mansion, etc.

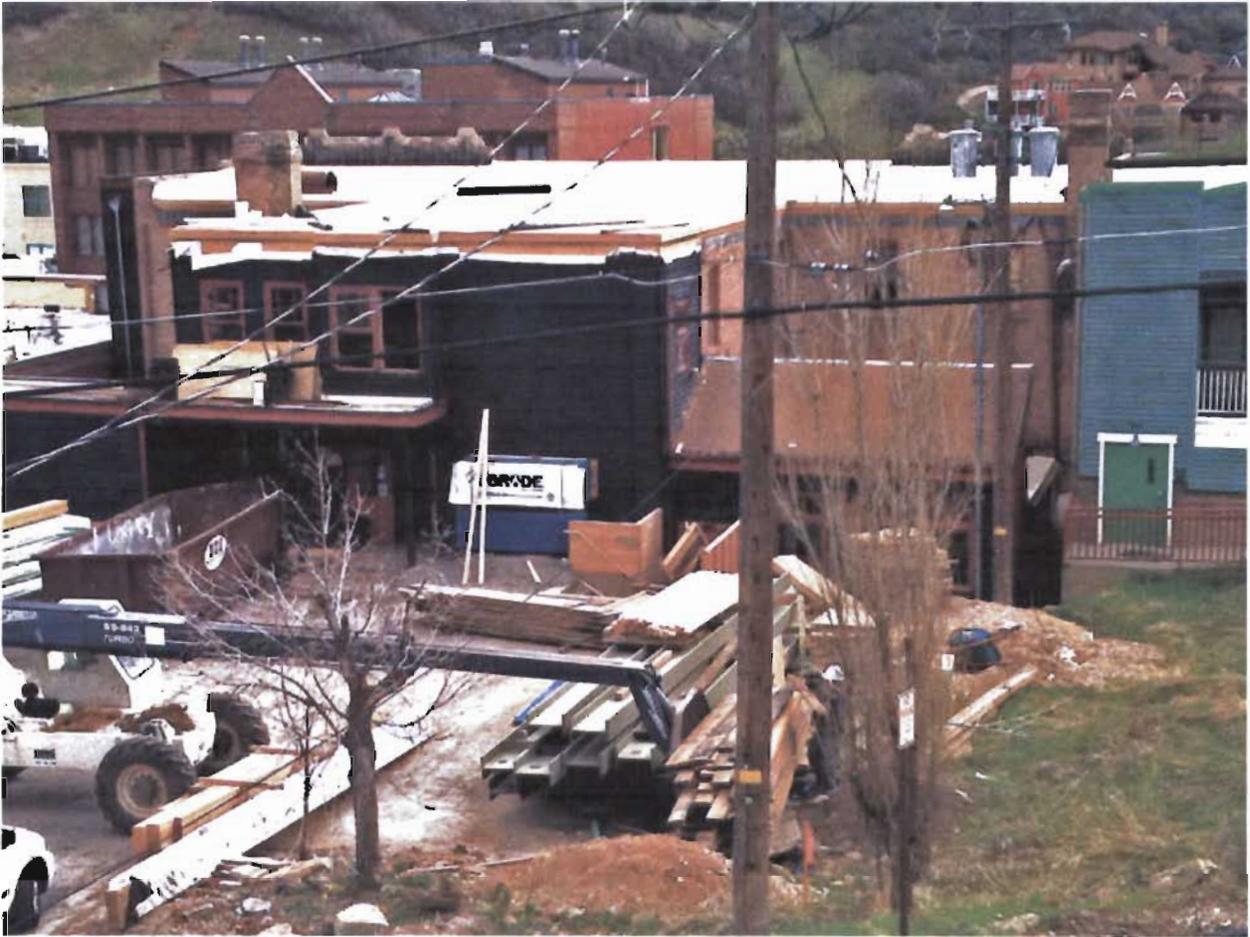
Ⓑ ID historic structures outside of HD -
or extend HD.

Ⓒ no paint on second grants - promote
people doing their own upkeep. no grants

EXHIBIT F



EXHIBIT G



WHEN RECORDED RETURN TO:

Thomas G. Bennett
Ballard Spahr Andrews & Ingersoll, LLP
201 South Main Street, Suite 600
Salt Lake City, Utah 84111

ENTRY NO. 00815455

06/07/2007 02:30:24 PM B: 1870 P: 0082

Covenant PAGE 1 / 4

ALAN SPRIGGS, SUMMIT COUNTY RECORDER

FEE \$ 16.00 BY PARK CITY TITLE



COVENANT NOT TO BUILD

THIS COVENANT NOT TO BUILD (this "Covenant") is made as of this 23rd day of May 2007, by 573 MAIN STREET, LLC, an Arizona limited liability company ("Grantor").

RECITALS

A. Grantor is the owner of the real property located in Park City, Summit County, Utah as more particularly described on Exhibit "A" attached hereto and incorporated herein (the "Grantor Property").

B. As a condition for receiving a building permit for improvements at the Grantor Property, Park City has requested that Grantor agree not to build on certain portions of the Grantor Property as indicated on Exhibit "A" (the "No-Build Portion").

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor covenants as follows:

COVENANT

1. Covenant Not To Build. Grantor hereby covenants not to build any vertical improvements on the No-Build Portion of the Grantor Property. This covenant applies only to improvements above ground and does not apply to any improvements below grade.

2. Reservation of Rights. Grantor reserves unto itself forever the right to place or grant easements, including, but not limited to, easements for utilities and maintenance, along, above, below or across the No-Build Portion of the Grantor Property.

3. Run with the Land. All provisions of this Covenant shall run with the land and be binding on Grantor and its respective successors in title to the Grantor Property.

4. Descriptive Headings. The descriptive headings of the sections hereof are inserted for convenience only and shall not control or affect the meanings or construction of any provisions hereof.

5. Governing Law. This Covenant is entered into in and shall be governed by and construed in accordance with the laws of the State of Utah, without giving effect to its conflict of laws principles.

6. Recitals and Exhibits Incorporated. The Recitals set forth above are true and correct and are incorporated herein by this reference. The Exhibit attached to this Covenant is incorporated herein by this reference.

7. Counterparts. This Covenant may be executed in two or more counterparts, all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Covenant has been entered into as of the day and year first above written.

GRANTOR:

573 MAIN STREET, LLC, an Arizona limited liability company

By: 573 Main Street Investments, LLC, an Arizona limited liability company

By: _____
Name: David C. Dewar
Its: Manager

STATE OF Arizona)
:ss.
COUNTY OF Maricopa)

The foregoing instrument was acknowledged before me this 23rd day of May, 2007 by David C. Dewar, the Manager of 573 Main Street, LLC, an Arizona limited liability company, on behalf of the company.

Stephanie Lee Martensen
Notary Public

My Commission Expires:
Mar. 25, 2010



Exhibit "A"

Depiction of No Build Portion

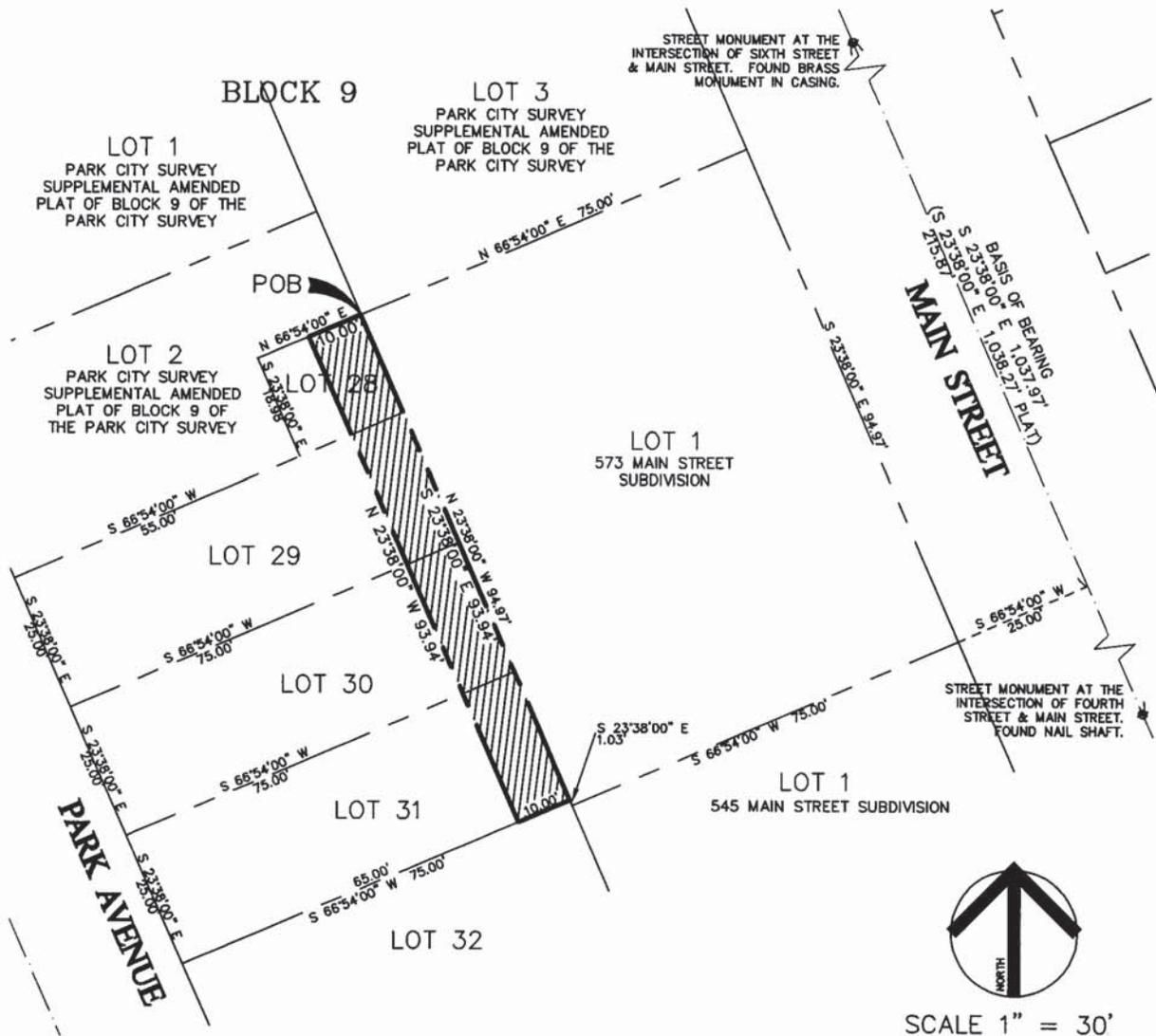
10.00 FOOT WIDE NO BUILD EASEMENT

BEGINNING AT THE EASTERLY MOST CORNER OF LOT 2 OF GADDIS LOT COMBINATION PARK CITY SURVEY SUPPLEMENTAL AMENDED PLAT OF BLOCK 9 OF THE PARK CITY SURVEY, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE SUMMIT COUNTY RECORDER (ENTRY NO. 467510), SAID POINT ALSO BEING ON THE NORTHEASTERLY PROPERTY LINE OF LOT 28 OF BLOCK 9 OF THE PARK CITY SURVEY; AND RUNNING THENCE SOUTH 23°38'00" EAST ALONG THE NORTHEASTERLY PROPERTY LINE OF SAID LOT 28 AND LOTS 29, 30 AND 31, A DISTANCE OF 93.94 FEET TO THE EASTERLY MOST CORNER OF LOT 31 OF SAID BLOCK 9; THENCE ALONG THE SOUTHEASTERLY PROPERTY LINE OF SAID LOT 31, SOUTH 66°54'00" WEST A DISTANCE OF 10.00 FEET; THENCE NORTH 23°38'00" WEST A DISTANCE OF 93.94 FEET TO THE SOUTHEASTERLY PROPERTY LINE OF SAID LOT 2; THENCE NORTH 66°54'00" EAST ALONG SAID SOUTHEASTERLY PROPERTY LINE A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.

PC-133

10.00 FOOT WIDE NO BUILD EASEMENT

BEGINNING AT THE EASTERLY MOST CORNER OF LOT 2 OF PARK CITY SURVEY SUPPLEMENTAL AMENDED PLAT OF BLOCK 9 OF THE PARK CITY SURVEY, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE SUMMIT COUNTY RECORDER (ENTRY NO. 467510), SAID POINT ALSO BEING ON THE NORTHEASTERLY PROPERTY LINE OF LOT 28 OF BLOCK 9 OF THE PARK CITY SURVEY; AND RUNNING THENCE SOUTH 23°38'00" EAST ALONG THE NORTHEASTERLY PROPERTY LINE OF SAID LOT 28 AND LOTS 29, 30 AND 31, A DISTANCE OF 93.94 FEET TO THE EASTERLY MOST CORNER OF LOT 31 OF SAID BLOCK 9; THENCE ALONG THE SOUTHEASTERLY PROPERTY LINE OF SAID LOT 31, SOUTH 66°54'00" WEST A DISTANCE OF 10.00 FEET; THENCE NORTH 23°38'00" WEST A DISTANCE OF 93.94 FEET TO THE SOUTHEASTERLY PROPERTY LINE OF SAID LOT 2; THENCE NORTH 66°54'00" EAST ALONG SAID SOUTHEASTERLY PROPERTY LINE A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.



SCALE 1" = 30'

PLOTTED: MAY 25, 2007

10 FOOT WIDE NO BUILD EASEMENT EXHIBIT
573 MAIN STREET SUBDIVISION

573 MAIN STREET, LLC 573 MAIN STREET, LLC 573 MAIN STREET, LLC

DESIGNED BY:
ADM
DRAWN BY:
ADM
CHECKED BY:
ADM

REVISION	
DATE	COMMENTS

Evergreen Engineering, Inc. 

Civil Engineering • Land Surveying • Land Planning
 500 South 200th Street • Suite 100
 P.O. Box 2000 • Park City • UT • 84002
 Phone: (435) 486-0887 • Fax: (435) 486-0228
 Email: info@evergreen-eng.com

Francisco Astorga

From: John Browning <jb@poplar.com>
Sent: Wednesday, April 25, 2012 5:49 AM
To: Francisco Astorga
Cc: Thomas Eddington; Kayla Sintz
Subject: Plat Amendment Application PL-10-01105, 573 Main Street and 572 Park Avenue

Dear Sirs,

We have been homeowners at 561 Park Avenue for three years and I am writing to oppose the proposed Plat Amendment PL-10-0110 and associated change of use for the Park Ave lots. I am particularly opposed to granting parking permissions for a Main Street lot on Park Ave. This is contrary to both the letter and spirit of planning regulations, and it represents further encroachment of Main Street's commercial activities on to what is zoned to be an historic residential area on Park Avenue.

While I understand that the developer of 573 Main proposes to reserve the parking for residential use, our experience of the informal parking now taking place on 572 Park Avenue suggests that this restriction will be unenforceable. In theory, as I understand it, the parking and use of the rear entrance of 573 Main was meant to be for special events at Sundance only. In practice, the lot is used year-round, for commercial, construction and I-just-can't-find-anywhere-else-to-put-the-car casual use. It considerably increases traffic and congestion on Park Avenue, and should be eliminated -- not legitimised. Things would only get worse in time if the Park Avenue lots in this plat amendment were ever developed, as they too would presumably bring their own parking. Park Avenue already struggles to manage its own cars, bringing in Main Street's would threaten the historical nature of the district -- which we homeowners are investing to maintain -- and the quiet enjoyment of our homes.

I further believe the proposed plat amendment to be based on an error of fact. 573 Main Street is proposed to be allowed to encroach on Park Avenue lots because it is "an historic structure." The Claimjumper certainly is an historic structure, and I would be delighted to see it brought back to something of its former glory. But the bits encroaching on to Park Ave lots are not. They are ad hoc modern additions. Strict enforcement of planning regulations would have them torn down. Even if the City does not wish to be that draconian, it seems very wrong to use past violations of planning regulations to try to legitimise future violations of the spirit of the code. In theory, planning is meant to maintain the distinction between commercial Main Street and residential Park Avenue. This would blur it.

I grew up in Ogden, and have been visiting Park City since the opening of the then-shiny-new gondola in the mid-1960s. We hope, over time, to become more than part-time residents. I am also well aware of the difficult trade-offs planning must make between preservation and development. But the historic town center is what makes Park City distinctive. As residents, we try very hard to keep our houses in a way that preserves the traditions of the place, and is alluring for visitors as well as nice for us. But we need the City's help in ensuring that the specialness of the neighborhood isn't eroded away, planning compromise by planning compromise. I would therefore ask the Planning Department to:

* Deny the requested plat amendment for additional parking on Park Avenue. Even for residential use, it would seem against the spirit and letter of the code to shift Main Street traffic on to Park Avenue. Worse, experience suggests that it would be impossible to restrict usage to residential purposes only. And in the longer term, development of the Park Avenue lots would create a wall of parking on the eastern side of Park Avenue that would harm to historic beauty of the neighborhood.

* Amend the planning report and relevant documents to note that the structures pushing over the boundary line from the Main Street to the Park Avenue plats are not historic, but 1980s and 1990s additions. Without clarity on what is and is not historic, the compromises and violations of the past will be compounded into the future, until there is no historic character left.

* Continue to work closely with the developer of 573 Main to ensure that the development of the ClaimJumper is one that we can all be proud of, rather than a constant source of complaint. That includes maintaining and enhancing the historic character of the building, preventing future noise issues, and also preventing structure and usage violations that would encourage commercial and service traffic on Park Avenue.

For the long term, everybody's interest -- and property values -- lie in maintaining the unique historic character of Park City: the quiet liveability of Park Avenue, the commercial bustle of Main Street and the dividing line between them. The City's planning regulations devote considerable detail to this task. I would ask you to enforce them.

with best regards,

John and Dianne Browning

.....
John Browning

t: +44 20 7700 1230 f: +44 20 7700 5255

Francisco Astorga

From: Will & Linda Cox <wlcox@northrock.bm>
Sent: Tuesday, April 24, 2012 5:58 PM
To: Francisco Astorga
Cc: Thomas Eddington; Kayla Sintz
Subject: Fwd: Plat Amendment Application PL-10-01105 - 573 Main Street and 572 Park Avenue

Attn: Planning Dept

Fairy Isles Ltd. owns 575 Park Ave across from 572 Park Ave since 2002. We completed a substantial renovation a year ago and willingly complied with many Historic issues throughout the construction. It is incumbent on the Planning Department to insist any construction on the upper Park Ave also adhere and conform to the Historic code. We are concerned that the LMC has not been properly applied to this plat amendment application. Likewise, there are a number of incorrect facts and omissions in the Staff Report. These mistakes have led to incorrect analysis, recommendations and Findings of Fact. We urge The City to get the facts corrected before any meaningful analysis and recommendations can take place. In an effort to protect ourselves and other owners on the street, we have engaged Joe Tesch, who will represent the homeowners in the immediate area.

Some of our specific concerns are:

- The report claims incorrectly that the Historic Building encroaches into the HR-2 lots. That is incorrect, as is clearly noted on the applicant's site plan. Only the non-historic addition encroaches into HR-2.
- The report states that the HR-2 lots currently exist without any structures. That is incorrect as can also be seen on the site-plan. Both the non-historic addition and the 1993 commercial parking lot are non-conforming uses and structures on the HR-2 lots.
- The existence of the non-historic encroachments triggers the Special HR-2A Requirements, contrary to the Staff Analysis.
- The report omits the fact that there are currently 4 rear doors to the building, when only one is permitted by code.

We are hopeful The City will do the due diligence on this Plat Amendment application in question on the East side of Park Ave (HR-2,Sub-Zone A) and where to the code that is in place.

Respectfully,

Will and Linda Cox
lcox@northrock.bm

Francisco Astorga

From: kirsten ehrich <kirstenehrich1@gmail.com>
Sent: Wednesday, April 25, 2012 8:14 AM
To: Francisco Astorga
Cc: Thomas Eddington; Kayla Sintz
Subject: Plat Amendment concerns re: 573 Main Street

Park City Municipal Corporation
443 Marsac Avenue
Park City, UT 84060

To: Park City Planning Commission
c/o Francisco Astorga

Re: Plat Amendment Application PL-10-01105
573 Main Street and 572 Park Avenue

We are the future owners of 553 Park Avenue, facing the rear of 573 Main Street. We are currently investing a substantial sum to rebuild and preserve the historic building, before we move in and take full ownership. As such, we are also part of the group represented by Joe Tesch, and are concerned that the LMC is not being properly applied to this plat amendment application.

There are a number of incorrect facts and omissions in the Staff Report. We believe these mistakes have led to incorrect analysis, recommendations and Findings of Fact. These errors, if left unchecked, will drastically affect the quality, value and use of our residential neighborhood. We ask the City to re-examine and correct these facts before any meaningful analysis and recommendations can take place.

Here are a few examples of the reports inaccuracies:

- The report claims incorrectly that the Historic Building encroaches into the HR-2 lots. That is incorrect, as is clearly noted on the applicant's site plan. Only the non-historic addition encroaches into HR-2.
- The report states that the HR-2 lots currently exist without any structures. That is incorrect as can also be seen on the site-plan.
- Both the non-historic addition and the 1993 commercial parking lot are non-conforming uses and structures on the HR-2 lots.
- The existence of the non-historic encroachments triggers the Special HR-2A Requirements, contrary to the Staff Analysis.
- The report omits the fact that there are currently 4 rear doors to the building, when only one is permitted by code.

The Code commits to "ensure improved livability of residential areas around the historic commercial core" (15-2.3-1G) and to "minimize impacts of Commercial Uses on surrounding residential neighborhood" (15-2.3-1K) For years, Park Avenue residents have had to live with the commercial code violations on the East Side of Park Avenue (HR-2, Sub-Zone A). We believe this Plat Amendment application presents the best, and perhaps the only opportunity, for the City to Fix all the code violations in HR-2, which is, after all, the intent of the code.

Our five homes directly face the rear of 573 Main, and collectively represent a \$6 to \$8M investment spent over 20 years, to help preserve and improve Park City's Historic District. This section of Park Avenue has become a jewel in Old Town, frequently being photographed and used for materials promoting the beauty and quality of life in Park City. The decision the City now faces could compromise the future of a quintessentially historic and quaint Park City neighborhood.

All of us as home-owners, taxpayers, and voters rely on the City to enforce the LMC as strongly as possible, both to preserve and improve the residential quality of life on Park Ave, and to equally protect the value of our investments. Our investments are based on the strength of the LMC prohibitions against commercial activity on upper Park Avenue. We expect City enforcement of the code to be equally strong.

Sincerely,

Peter and Kirsten Ehrich

Francisco Astorga

From: John Plunkett <john@plunkettkuhr.com>
Sent: Wednesday, April 25, 2012 11:43 AM
To: Francisco Astorga
Cc: Thomas Eddington; Kayla Sintz
Subject: Plat Amendment concerns re: 573 Main Street

Park City Municipal Corporation
443 Marsac Avenue
Park City, UT 84060

To: Park City Planning Commissioners

c/o Francisco Astorga

Re: Plat Amendment Application PL-10-01105
573 Main Street and 572 Park Avenue

Dear Commissioners,

We are the owners of the historic home at 557 Park Avenue, where we've lived and worked since moving to Park City, in 1991.

During these 20 years, we've restored five historic homes on Park Avenue and Woodside, and are currently redoing the house next door at 553 Park Avenue for a client. We also worked closely with the City for five years, to help get upper Park Avenue rebuilt with sidewalks and a dedicated parking lane.

The renovation of the street in 1994 spurred others to reinvest in the historic homes on Park Avenue, and we're proud to have had in hand in making the street a better place to live, and perhaps the most intact and well-maintained street in Park City's Historic District.

But during these 20 years we've also had to fight to keep the HR-2 zone across the street from becoming just another Swede Alley for service, parking and deliveries to Main Street. The code is clear: HR-2 (Sub-zone A) is meant to have residential only Uses, and all Commercial Uses are Prohibited. The problem is, there has been very little enforcement of the code.

Right now with this Plat Amendment application, the Planning Commission has a great opportunity to set things right, and bring this 573 Main St property back into compliance with the HBC and HR-2 zones, the way it was when we moved here in 1991. We'll let Joe Tesch speak to that, as he represents us and our neighbors in this Public Hearing.

What we'd like to do though, is point out that the Planning Commission also has an opportunity to make sure that the proper, legal Public Process is followed by the City. The LMC is clear: 15-1 -11.(C) states that "Plat Amendments and Subdivisions must be reviewed pursuant to LMC Chapter 15-7". **No Building Permit may be issued prior to such an approval."**

Somehow, in spite of the code, this applicant has already received an HDDR approval and several Building Permits, and is well under way to completing the project that you and the Public are only seeing for the first time tonight. This makes a mockery of Park City's public process, and undercuts the powers of the Planning Commission as well.

We hope you will take the opportunity tonight to correct this terrible mistake, and instruct the Building Department to rescind these clearly illegal Building Permits. The applicant should be required to wait to apply for a building permit until AFTER they receive an approved Plat Amendment, just like the LMC requires and just like everybody else in town has to do.

Thanks for your consideration,

Sincerely,

John Plunkett and Barbara Kuhr

Francisco Astorga

From: Rick Van Dresser <Rick.VanDresser@huntington.com>
Sent: Wednesday, May 23, 2012 7:48 AM
To: Francisco Astorga; Thomas Eddington
Subject: Developer proposal for 573 Main Street

Dear Mr. Eddington and Mr. Astorga,

I understand the commercial project at 573 Main Street will be reviewed by the Planning Commission on this day.

As a homeowner with members of my family of 568 Woodside, the back of our vacation home overlooks the back entrance and parking area of 573 Main Street, and we are very concerned that traffic and noise could become a problem. Our vacation home stays busy between family use and vacationers who rent our home to come and enjoy Park City's wonderful combination of outdoor activities followed by dining and shopping on Main Street. Our home has a rear deck which affords a wonderful view of much of Old Town, and yet is not exposed directly to the noise and traffic of Main Street.

We strongly encourage that the developers of 573 Main Street be restricted to offering only the Main Street entrance to visitors, that the HVAC equipment on the roof be shielded, and that the noise and activity that will surely result from customers having a good time all be directed towards the Main Street side of the building and not the residences behind on Park Avenue and Woodside.

Thank you for your consideration.

Rick Van Dresser
Birmingham, Michigan

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Francisco Astorga

From: John Plunkett <john@plunkettkuhr.com>
Sent: Tuesday, June 19, 2012 3:25 PM
To: Francisco Astorga
Cc: Patricia Abdullah
Subject: Public Input re: 573 Main St and 572 Park Ave Plat Amendment

To the Park City Planning Commission, c/o Francisco Astorga

Dear Planning Commission Members,

We're writing on behalf of the five Park Ave property owners whose homes face the rear of this Main Street commercial building. We are all also represented by attorney Joe Tesch.

At the April 25 hearing we were pleased that the applicant requested a continuance from you, so that they could 'work with the neighbors' to address our concerns. Imagine our dismay then, when over a month later they informed us that they're not willing to change a thing.

At this point, all we can do is place our trust in the Planning Department and Commissioners to require this applicant to comply with Park City's LMC. If there is going to be a year-round Main Street nightclub like the Bing Bar, surely the LMC should be applied to mitigate its impacts on the surrounding residential neighborhoods as much as possible. That's all we ask.

We'd like to respond here to attorney Joe Wrona's May 31 letter. We'll address his specific points lower down, but first it is important to note that his letter fails to address the newly-discovered facts we provided the Commission regarding the 1992 non-conforming addition. It also fails to address our contention that No Good Cause exists for allowing the addition to continue to encroach onto the HR-2 lots, and to cover the rear of the historic building.

But most importantly, Mr Wrona fails to address the underlying reason for our concerns, namely the illegal use of the Park Avenue rear exit-only doors as Commercial Entrances and Service Doors for the Bing Bar nightclub, during the last two Sundance Film Festivals.

In fact it would be helpful in considering this Plat Amendment, if the applicant could confirm that they either do or don't intend to use the entire building for special events on a year-round basis, as they have for the Bing Bar, and as appears to be the case from viewing their plans.

For the Commission's reference, here is a summary of our concerns:

1. Adjusting lot lines does not cure the Structure and Use encroachments that run across the underlying zoning, from the HCB zone into HR-2, Sub-Zone A.
2. The 1992 addition is non-historic and should be removed. Now that the historic building has been stabilized, the stairway can be safely put inside it, rather than outside on the Park Ave lots. This will cure the 1992 encroachment that was made for The Purpose of Preserving the Historic Structure in the HCB.
3. The double-door, rear 'entrance' must revert to an exit-only door with an alarm, as per code. It should also be a single door, the same as it is in the historic building.

4. Therefore the exit door cannot also double as a 'residential only' entrance — Residential parkers will need to access the HCB building from a legal entrance within the HCB, which they can access via the covered walkway that connects the Park Ave lots to Main Street.

5. There is Good Cause to Remove the 1992 addition and restore the Hist Building and Site within the HBC zone, which will in turn make all three Park Ave residential lots once again legal, buildable lots – instead of the two sub-standard lots proposed.

6. Most importantly, given the last two year's Bing Bar experience, there is Good Cause to mitigate the effects of a Main St nightclub's noise and outdoor mechanical systems on the surrounding, uphill neighborhoods.

(LMC 15-2.6-10 speaks to this: "Mechanical Service. All exterior mechanical equipment must be Screened to minimize noise infiltration to adjoining Properties and to eliminate visual impacts on nearby Properties, including those Properties **located above the roof tops of Structures in the HCB District.**")

Regarding the potential impacts that Mr Wrona's letter refers to, Lighting, Noise and Traffic, there is no way to evaluate his claims at this time, as the applicant has not yet filed a Proposed Site Plan, Lighting Plan, or Outdoor Mechanical Equipment Plan. These will be of great concern to us though, once they have been submitted.

Lastly, regarding Mr Wrona's opinion of Visual Impact, the only eyesore that we Homeowners face is the 1992 wooden addition that hides the historic brick hotel. We would welcome the reappearance of the Historic brick Building, the restoration of the three HR-2 residential lots, and especially the return of all commercial uses back inside the HCB zone where they are allowed.

Thank you for your consideration of our concerns.

Sincerely,

John Plunkett & Barbara Kuhr, 557 Park Ave, on behalf of:

Will & Linda Cox, 575 Park Ave
Bill Kershaw & Tom Simpson, 569 Park Ave
John & Dianne Browning, 561 Park Ave
Brulecreek UT 1, LLC, 553 Park Ave



May 31, 2012

Joe Tesch
TESCH LAW FIRM
314 Main Street
2nd Floor
POB 3390
Park City, UT 84060

Re: 573 Main Street Plat Amendment

Dear Joe:

My clients have carefully reviewed the staff report, and they have considered your clients' requests. Unfortunately, it appears that your clients want to use the Plat Amendment Application as an opportunity to essentially demolish substantial portions of the ClaimJumper Building. The purpose of the Plat Amendment is to enhance the ClaimJumper, not to tear it down.

In my opinion, the ClaimJumper Plat Amendment mitigates the impact of the ClaimJumper's presence on Park Avenue. For instance, the proposed Plat Amendment reduces three (3) building lots on Park Avenue down to two (2) building lots, and the Plat Amendment reduces an eight (8) car parking lot down to two (2) restricted parking stalls. These changes directly benefit the Park Avenue neighborhood behind the ClaimJumper Building.

With regard to the impact of the ClaimJumper on Park Avenue, I perceive four (4) categories of potential impacts: 1) light; 2) noise; 3) traffic; and 4) visual appearance. I will address the Plat Amendments' effect on each of those potential impacts below.

1. Lighting. With regard to night lighting, the ClaimJumper Plat Amendment will not increase night light on Park Avenue; therefore, I do not perceive that lighting is even an issue.
2. Noise. The Plat Amendment will not increase noise on Park Avenue. If anything, the Plat Amendment reduces noise on Park Avenue because the eight stall parking lot is being replaced with two dedicated parking stalls, and three building lots are being reduced to two lots. These changes reduce the noise on Park Avenue, not the other way around.
3. Traffic. Traffic on Park Avenue is mitigated by the Plat Amendment. Currently, automobiles are able to access an uncontrolled eight car parking lot on Park Avenue and those automobiles travel up and down Park Avenue at will. The Plat Amendment proposes to replace the existing eight car lot with two dedicated stalls. The net effect of the Amendment on Park Avenue traffic is that ClaimJumper automobile traffic is dramatically reduced. I assume your clients think that is a good thing.

4. Visual Impact. The ClaimJumper Building is currently in sad condition, to say the least. No one likes looking at an abandoned building with a crumbling exterior. Re-platting the ClaimJumper Building and allowing it to be brought back to life with exterior resurfacing is precisely what Park City needs, and I hazard to say your Park Avenue clients are excited by this positive change.

In summary, I do not perceive how the 573 Main Street Plat Amendment adversely impacts the Park Avenue neighborhood in any way. The Plat Amendment benefits Park Avenue, and the Applicant would appreciate the support of its Park Avenue neighbors for the Plat Amendment.

Thank you for your attention and courtesy.

Very truly yours,

WRONA LAW FIRM, P.C.



Joseph E. Wrona

/nw

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A Professional Law Corporation

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June 19, 2012

VIA EMAIL AND US MAIL

Joe Wrona
Wrona Law Firm, PC
1745 Sidewinder Drive
Park City, Utah 84060

Re: Claimjumper and Bingo Bar 573 Main Street Plat Amendment

Dear Joe:

Thank you for your letter dated May 31, 2012. I thought it deserves a response paragraph by paragraph so you are not left with any misunderstanding from lack of response that my clients agree or disagree with your positions.

With regard to your first paragraph wherein you indicate that the plat amendment process presented an opportunity for my clients to essentially demolish substantial portions of the Claimjumper building, that is a gross misstatement. The purpose of my clients objections to the retention of the non historic rear portion of the current Claimjumper building is that it is not historic and visually distracts from the original architecture and therefore removal will restore, in a more perfect way, the original Claimjumper building. A second reason is that it is an illegal addition since it violates the current ordinances and unlawfully encroaches onto the HR-2 Zone which does not permit commercial buildings. We are at a loss as to why your client does not wish to remove this unsightly addition and restore the original historic building. Lastly, as you know, the multiple doorways and double doorways in the unlawful addition also violate current Land Management Code. Under the Land Management Code, only a single door is permitted with sufficient barriers to eliminate the possibility of that door being used for commercial purposes.

With regard to your second paragraph indicating that in your opinion the plat amendment mitigates the impact of Claimjumper's presence on Park Avenue by reconfiguring their lots into two larger lots. We understand your opinion. However, my clients are in total disagreement.

My clients prefer the three building lots that are currently platted which are the usual, ordinary and preferred lot sizes for this zone. It adds to the smaller home visual objective of Old Town. The restriction of eight parking stalls down to two can be an advantage if, and only if, there are attractive barriers erected (landscaping, etc.) which would physically limit any more than two automobiles. In addition, the two parking spots must be physically restricted from any commercial traffic and that could only come from using a locked gate or some other device which permits only residential occupants of the residential condominiums to use those spaces. Otherwise, my clients believe that the ongoing abuses of the parking lot that have occurred with the same owners of the last few years will continue. There is an additional problem. Either the residential uses already have dedicated parking from locations other than Park Avenue or the proposal of two parking spaces only, is less than minimum required for residential units and could well increase the traffic and parking problems on Park Avenue.

With regard to your third paragraph which explains your perception of the impacts on Park Avenue residence, I will address those one at a time.

1. Lighting. Lighting is an issue, especially when the parking lot is being abused by use for commercial traffic. Your proposal does nothing to remedy this problem, but only indicates that it will not exacerbate it. When you ask for plat amendment, the conditions for that amendment should improve the situation, not simply allow a bad situation to continue.
2. Noise. Again, you indicate that a plat amendment will not “increase the noise” on Park Avenue. The problem is that the noise on Park Avenue has been a nuisance and an unnecessary and unlawful irritant to the residents of Park Avenue and also Woodside Avenue (as much of a noise flows uphill into the homes on Woodside Avenue). Your comments seem to concentrate only on traffic. That hardly begins to address major components of the problem. For instance, because there are four doors in the non historic portion of the Claimjumper building which encroach on the HR-2 Zone lots, during use of the commercial portion of the business and even after hours, employees and guests gather on the parking lot to smoke, tell jokes and generally engage in loud talking into the wee hours in the morning (and sometimes not so wee). That is why there must be absolute barriers which deny access to the back of the building currently protruding onto the HR-2 Zone lots from loitering, etc. Physical barriers are imperative. The Land Management Code allows only one single door. All of these issues need to be addressed in order to address the noise problem.
3. Traffic. Your conclusion that traffic will be “dramatically reduced” on Park Avenue is not shared by my clients as a result of past experience and a potential for continued abuse of even two parking spaces by use for commercial purposes. In addition, since one parking spot does not meet code requirements for each of the two residential units, it is likely that it will increase the traffic and parking problems along Park Avenue unless absolutely procedures are put into place which limit the use of those two parking spots.

4. Visual Impact. My clients are in full support of the Applicant in bringing the Claimjumper building “back to life” with “exterior resurfacing” as you note in your letter. We have no intention of interfering with that improvement of the historic structure. Unfortunately, the non historic addition on the back of the building actually detracts from bringing the historic building back to life. It also accommodates all of the problems that I have outlined above.

My clients also disagree with your summary. We agree that a plat amendment should and must occur with regard to the HCB Zone lots. As a condition, the Applicant should be required to come current with the Code in every other way. Since the Applicant continues to demand exceptions to the current Code, as we view it, which negatively impact them and the continued viability of Old Town, I believe that my clients oppositions are not only in your best interest, but in the interest of all of the residents of Park City.

Thank you for your letter dated May 31st and we hope that your client seriously considers these responses to the impact on the neighborhood and is willing to henceforth, meet the requirements of all Land Management and Building Code requirements and be good neighbors, as my clients are attempting to also be.

Sincerely,
Tesch Law Offices, P.C.



Joseph E. Tesch

JET/tw

cc: Park City Planning Commission
Francisco Astorga

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A Professional Law Corporation

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June 27, 2012

VIA HAND DELIVERY

Park City Planning Commission
PO Box 1480
Park City, Utah 84060

Re: 573 Main Street

Dear Planning Commission:

Due to the severe and multiple violations of the protections afforded my clients on Park Avenue by the Land Management Code, if you decide to approve the plat amendments proposed, we request the following conditions as a substitute to those proposed by staff (paragraphs 1-5 and 12 were lifted directly from the Staff Report). We also strongly suggest that these conditions be explicitly placed on the amended plat so as to insure their enforceability against this and all future owners.

Sincerely,
Tesch Law Offices, P.C.



Joseph E. Tesch

JET/tw
Enclosure

ADDITIONAL CONDITIONS OF APPROVAL
(to be placed on the Amended Plat)

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Modified 13-D sprinklers will be required for new residential construction along Park Avenue.
4. A 10 foot wide public snow storage easement shall be provided along Park Avenue.
5. The parking easement on Lots 2 and 3 for the benefit of Lot 1 is only permitted to be used for the residential units. The parking easement shall not be used for commercial purposes.
6. The existing parking lot shall be removed by replacing the current parking surface with landscaping until homes are built on the HR-2 lots. A landscaping plan shall be approved by the City, but it shall be sufficient clearly to prohibit parking of any vehicles.
7. The easement from the two parking spaces on the HR-2 to the HCB shall be for use by the occupants of the residential units only and shall be a maximum of four (4) feet wide.
8. The upper two floors may only be used as residential properties and no commercial uses whatsoever shall be permitted. The interior build out of these residential units shall be such as to prohibit access from the commercial units to the HR-2 lots as required by the HR-2 Sub-Zone A.
9. Only one emergency single width exit only door with alarms may exist from the HBC to the HR 2 lots. All other exits must funnel the occupants into the HBC zone as per the HR-2 Sub-Zone A.
10. The two (2) parking spaces in the HR-2 Zone shall have significant exterior barriers prohibiting parking or vehicle traffic beyond those spaces; and a gate must be placed between the parking spaces and the access easement with a locking device allowing access only to the residential occupants.
11. Screening of roof mounted equipment and vents prohibiting visual and noise description for residential units behind and above the historic structure shall be constructed in conformance with the requirements of the Section 15-2.6-10 of the Land Management Code.
12. The property owner shall donate a preservation easement to the City for the Historic Structure before the plat is recorded