



## **AGENDA**

<b>ROLL CALL</b>	<i>pg</i>
<b>CORRECTION OF MINUTES FOR MARCH 2, 2011</b>	3
<b>APPROVAL OF MINUTES OF JUNE 20, 2012</b>	31
<b>APPROVAL OF MINUTES OF JULY 18, 2012</b>	41
<b>PUBLIC COMMUNICATIONS</b> – <i>Items not on regular meeting schedule.</i>	
<b>STAFF/BOARD COMMUNICATION &amp; DISCLOSURES</b>	
<b>WORK SESSION</b> – <i>Discussion items only. No action will be taken.</i>	
Annual Open and Public Meetings Act Training	
Discussion and overview of national Planning trends	
<b>ADJOURN</b>	

**Times shown are approximate.** Items listed on the Regular Meeting may have been continued from a previous meeting and may not have been published on the Legal Notice for this meeting. For further information, please call the Planning Department at (435) 615-5060.

A majority of Historic Preservation Board 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.

**CORRECTION OF MINUTES OF MARCH 2, 2011**

# HISTORIC PRESERVATION BOARD

## Staff Report



**Author:** Thomas Eddington, Planning Director  
**Subject:** Correction of Minutes  
**Date:** August 15, 2012  
**Type of Item:** Administrative

### Recommendation

Staff recommends the Historic Preservation Board (HPB) review, discuss, and revise the minutes of March 2, 2011 to clarify the motion for the 811 Norfolk Avenue appeal of Staff's Determination on a Historic District Design Review (HDDR) as outlined on page 16 of the amended minutes (Exhibit A).

### Background

On March 2, 2011 the HPB held a hearing to review the appeal of 811 Norfolk Avenue. The appellant and owner, Jeff Love, was appealing Staff's determination of a Denial of a HDDR. The Board reviewed the appeal and, after discussion, overturned Staff's decision finding that the proposal to move the Landmark structure met the criteria laid out in Section 15-11-13(A) of the Land Management Code.

The minutes of the March 2, 2011 were approved on April 6, 2011. The motion reflected in the minutes of March 2, 2011 reads:

MOTION: Board Member Werbelow made a motion acknowledging that an encroachment exists at 811 Norfolk Avenue and that an easement cannot be achieved. Because the relocation as proposed does not otherwise compromise the landmark status or the historic integrity, and that innate conditions exist, the January 13<sup>th</sup>, 2011 proposal is approved. Board Member White seconded the motion.

The HPB's decision was appealed to the Board of Adjustment (BOA) and the BOA overturned the Historic Preservation Board's decision. The BOA's decision was then appealed to the District Court. As part of the District Court proceedings, the recording of the HPB hearing was transcribed and the transcription shows that the word stated was "unique" and not "innate".

Therefore, Staff recommends amending the original motion to read:

MOTION: Board Member Werbelow made a motion acknowledging that an encroachment exists at 811 Norfolk Avenue and that an easement cannot be achieved. Because the relocation as proposed does not otherwise compromise the landmark status or the historic integrity, and

that ~~innate~~ **unique** conditions exist, the January 13<sup>th</sup>, 2011 proposal is approved. Board Member White seconded the motion.

Although the membership of the HPB has changed since 2001, there are still two members sitting on the Board who were present that night. The members who were not there may vote on this matter upon reliance on the transcript and the minutes.

### **EXHIBITS**

Exhibit A – Minutes of March 2, 2011 HPB meeting (Redlined, p. 16)

Exhibit B – Transcript of March 2, 2011 HPB meeting

PARK CITY MUNICIPAL CORPORATION  
HISTORIC PRESERVATION BOARD  
CITY HALL – COUNCIL CHAMBERS  
MINUTES OF MARCH 2, 2011

BOARD MEMBERS IN ATTENDANCE: Roger Durst, Ken Martz, Dave McFawn, Brian Guyer, Sara Werbelow, David White,

EX OFFICIO: Tom Eddington, Katie Cattan, Kayla Sintz, Polly Samuels McLean, Brooks Robinson, Patricia Abdullah

---

WORK SESSION – Review of Design Review Team and Pre-Application Process

Board Member Werbelow had attended three design review team meetings and provided the Board with an update based on her observations. She noted that in those three meetings a large variety of applications came before the DRT, which included an addition to a non-historic building in the Historic District; an addition to a very prominent Main Street Historic Building; a garage under a historic home; and a complete reconstruction.

Board Member Werbelow reported that the design guidelines and the LMC are the general mechanism for the DRT meetings. The meetings are very structured and with each application the team goes through the design guidelines and discusses any implications related to the guidelines. She found it very helpful to see the guidelines being utilized as the key analysis, and noted that the guidelines are applied differently to each specific application. She used the prominent Main Street historic structure as an example of a rigorous application of the guidelines. There was some discussion on materials regarding the addition and the importance of having a visually subordinate addition, and what the delineation could look like.

Board Member Werbelow reiterated that the key factor for her was to witness the design guidelines in play. She recalled that the guidelines were created as a fluid document with the ability to evolve. Board Member Werbelow did not have specific recommendations this evening regarding the design guidelines, and she looked forward to attending future DRT meetings.

Board Member McFawn asked how determination on the guidelines or the LMC is reported back to the applicant. Board Member Werbelow explained that the project planner sends the applicant a follow-up letter indentifying the applicable guidelines. The information is clearly provided and the Design Review Team is available to assist the applicant.

Chair Durst closed the work session and opened the regular meeting.

REGULAR MEETING

ROLL CALL

Chair Roger Durst called the meeting to order at 5:02 p.m. and noted that all Board Members were present except for Brian Guyer who arrived late.

## ADOPTION OF MINUTES

### Minutes of November 3, 2010

MOTION: Board Member McFawn moved to ADOPT the minutes of November 3, 2010. Board Member White seconded the motion.

VOTE: The motion passed unanimously.

### Minutes of December 1, 2010

MOTION: Board Member McFawn moved to ADOPT the minutes of December 1, 2010. Board Member White seconded the motion.

VOTE: The motion passed unanimously.

## PUBLIC COMMUNICATIONS

There was no comment.

## STAFF/BOARD MEMBER COMMUNICATIONS AND DISCLOSURES

Planning Director Thomas Eddington, stated that the Staff had prepared a matrix of all the historic district design approvals and the status of each one. The matrix was included in the Staff report beginning on page 29. He noted that the Board had seen previous iterations of the list, but this was the first time the HPB had seen the list this comprehensive and formalized. Director Eddington asked if the list was helpful and whether the Board had ideas for what the Staff could do to update the matrix each time they see it. Director Eddington suggested that the Staff could identify approvals that take place each month in a certain color to easily recognize the current approvals.

Director Eddington clarified that everything on the current list that was highlighted in blue was a historic district design approval based on the old design guidelines. Everything not in blue was approved under the new guidelines.

Board Member McFawn liked the idea of grouping and suggested grouping minor and major projects. He thought color coding was helpful.

Director Eddington encouraged the Board to contact him or Patricia Abdullah with suggestions and comments prior to the next meeting. He thanked Patricia for putting the list together.

Chair Durst noted that 164 properties were listed, 41 of which were pending review. He wanted to know the difference between a review pending and a full review pending. Director Eddington stated that a review pending may indicate that the Staff is waiting for additional or revised information from the applicant. Chair Durst noted that three properties listed were owned by the City. He asked about the City's obligation with regards to those properties. Director Eddington replied that the City would be required to submit an application, the same as any project.

Ms. Abdullah clarified that pending full review means that the application was submitted and they are waiting on a full submittal package. The pending full review would occur first.

Planner Kayla Sintz reported that the City Council would be interviewing potential HPB members the next day from 4:00 p.m. to 5:50 p.m. Interviews would also be conducted the following Thursday. Planner Sintz noted that there were 13 applicants.

## PUBLIC HEARING/DISCUSSION ITEMS

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

Planner Katie Cattan reported that the applicant for 1101 Norfolk had requested a continuation to the next meeting.

MOTION: Board Member Werbelow moved to CONTINUE 1101 Norfolk Avenue to April 6, 2011. Board member McFawn seconded the motion.

VOTE: The motion passed unanimously.

### 811 Norfolk Avenue – Appeal of Historic Design Review (Application #PL-11-01198)

Planner Cattan reviewed the appeal for 811 Norfolk Avenue regarding the Staff's determination of non-compliance with the design guidelines for historic districts and historic sites. She noted that the Staff report included a letter from Dina Blaes, as well as a copy of the streetscape. Planner Cattan referred to page 54, fourth paragraph, fifth line, and corrected south side yard to read, north side yard.

Planner Cattan stated that the home is located at 811 Norfolk Avenue and has landmark status. The only outstanding issue with the Planning Department is whether or not the home could be moved. The Planning Staff denied the movement of the home, and that decision was appealed by Jeff Love, the applicant. She noted that Mr. Love had attached other issues to the appeal that were outlined in the Staff report; however, she first wanted to focus on why moving the home was denied.

Planner Cattan read from the LMC section related to relocation and/or re-orientation of a historic structure. She noted that the intent was to preserve historic and architectural resources in the City and to place limitations on relocation and/or re-orientation of historic buildings or historic sites. Planner Cattan read from the Historic District Design Guidelines, "Re-location and/or re-orientation of historic buildings can be considered only after it has been determined by the Design Review Team that the integrity and significance of the historic building will not be diminished by such an action...." She noted that the application is a landmark structure and based on the current design, the DRT made findings that it would remain a landmark structure after recent changes were made. Planner Cattan further read, "...and the application meets all the criterion of the side bar to the left." The first criteria was only if a portion of the historic building encroaches on an adjacent property and an easement cannot be secured. The Staff

believed that criteria was not met because Mr. Love owned the entire property at one time and could have required an encroachment agreement.

Planner Cattan noted that in the letter from Dina Blaes dated May 25, 2010, Ms. Blaes notes that the applicant stated a preference for selling off part of the property, a legal lot to the north. In that case moving the house could be considered, but must still meet the requirements of the LMC so as to not result in the loss of designation and the requirements of the design guidelines. Planner Cattan pointed out that Ms. Blaes indicated that the third point was the only one that could be considered under the circumstances, which states that the Planning Director and Chief Building Official determine that the unique conditions warrant relocation on the existing site. Ms. Blaes did not believe the request met points 1 and 2 of the guideline.

Planner Cattan referred to a letter she had written, dated May 19, 2010, in which she stated that if the lots are not owned by the same person and an encroachment exist, and if the owner of the home at 811 Norfolk cannot secure an easement, then relocation of the existing home may be considered. She believed her letter was clear in saying, "if it is not owned by the same person..." Planner Cattan stated that it was never brought to her attention prior to the time of purchase that the lots would be owned by one person and then sold off separately without an encroachment agreement. Because the Staff did not have all the accurate information during the pre-application period, they found that the encroachment criteria was not met.

Planner Cattan read the second criteria, "If relocation of the building on to a different site is the only alternative to demolition." She pointed out that this was not the case because the home could remain on the site and not be demolished. Planner Cattan read the third criteria as previously stated in the letter from Ms. Blaes. The third criteria could apply, but Ms. Blaes did not believe the criteria appeared to be met. However, they still needed an official consensus from the required administrative officials. At that point a complete application package had not been submitted for a full design review. Once they received a full application, the Staff reviewed it against the three criteria for relocating a home. The Planning Director and the Chief Building Official particularly looked at the streetscape and found nothing more unique than other properties in the surrounding areas.

Planner Cattan reviewed the property and the characteristics of the lots. She noted that the historic home sits on Lots 2 and 3 and encroaches three feet on to Lot 4. Lot 4 and a three-foot portion of Lot 5 were sold. Therefore, the home now encroaches onto to Lot 4.

Planner Cattan showed the spacing that would occur without movement of the home. She noted that originally the Staff said that a 6 foot area would be required between the two homes. After clarification from the Building Department, if a home encroaches over a lot line and the homes are closer than 3 feet, firewall maintenance is required. If the homes are on their own property, the requirement is 3 feet from the property lines. Planner Cattan stated that based on current conditions, if the home at 811 Norfolk is not moved, the property at 817 Norfolk could be as close as 3 feet to the landmark structure. If the home is moved, the 3 foot side yard would be required for Mr. Love and another 3 foot side yard would be required for the property owner at 817 Norfolk.

The result would be 6 feet of space between the structures.

Planner Cattan pointed out one area where an exception could be made, but the Staff could not make a finding that it was unique, or that the Planning Director and Chief Building Official determined that meeting conditions warrant the relocation or re-orientation of the existing site. Planner Cattan explained that one reason it was not found to be unique was that the new construction would have to comply with the spacing and follow the guidelines. She reiterated that the information submitted by the applicant was no longer 100% correct because the design for 811 Norfolk has change. There is inadequate spacing between 811 and 817 Norfolk and it would not meet the guidelines for a historic design for 817 Norfolk. Planner Cattan emphasized that 817 Norfolk was not part of the appeal this evening.

Planner Cattan reviewed the streetscapes and again commented on the one area the Staff had determined not to be unique. She noted that the Board could dispute that determination in their discussion this evening.

Planner Cattan explained that the HPB was reviewing this appeal de Novo, which means they should conduct their review as a fresh look for the first time. The Staff was available to provide additional information and additional documents if necessary. Each Board Member had been provided with a copy of the design guidelines.

Mark Kozak, legal counsel representing the applicant, stated that no one had discussed disclosures per the City Ethics Code. He pointed out that if any Board Member has had communication regarding this application with anyone, they are required under the Ethics Code to make that disclosure part of the record. If it was written communication they are required to submit that writing into the record. Oral communication should be written down and submitted as part of the record. Mr. Kozak stated that Mr. Love is entitled to a disinterested set of eyes on this question. It is unfair to him as an applicant if prior discussion on this project had occurred with third parties, to which Mr. Love was not privy. Through disclosure, Mr. Love has the opportunity to address the content of those discussions. Mr. Kozak noted that failure to comply with the Ethics provision is a Class B misdemeanor.

Mr. Kozak explained that the substance of the appeal deals with the encroachment issue of moving the landmark site home. He understood that the Staff was satisfied with the rest of the application. Mr. Kozak noted that this was a quasi-judicial hearing, which means that the Board applies the law to the facts. The application specifies what the applicant would like to do with his property. Alongside that is the LMC that guides and governs the way property is treated in Old Town. Mr. Kozak stated that the HPB has the task of applying the Land Management Code to the facts. The City Council has the authority to make any law they want, and the applicants try to work under the Code as written. Everyone has the opportunity to come into town and purchase property with an expectation of what can be done with that property by reviewing the LMC. Mr. Kozak stated that Mr. Love was a contract purchaser and was still under a due diligence period when he first met with the City about what he could do with this property.

Mr. Kozak remarked that Park City is a small, active community. A lot of influence is exerted and there is interest in most decisions. He stated that the courts have spoken to this and they call it public clamor. The courts have said that the proper time for public clamor is when the City is legislating new rules and regulations. That is the appropriate time when the City should give the greatest consideration to public commentary. Mr. Kozak stated that the courts have also said that public clamor has the least role in

situations when the Code is being applied to specific facts. In this particularly case, the HPB is the appropriate body to look at that situation, and not the public.

Mr. Kozak stated that there was no presumption that the Staff was right in their decision. The applicant had omitted from the presentation a list of items they were unhappy about in terms of how the application was handled and prosecuted. They believed that on the merits of their application, they were in a position to strongly justify what they wanted to do. The first reason was that it complied with the LMC and the second is that it constitutes good design and a real sense of historic values.

Jeff Love, the applicant, referred to a comment Planner Cattan made that he believed was in error. Planner Cattan referred to Ms. Blaes' letter and the reference "not the case here" under criteria one. Mr. Love noted that the comments were written from the application that was submitted on May 13<sup>th</sup>, 2010. At the May 19<sup>th</sup> pre-HDDR, he disclosed that there had been a change in the packet. In his opinion, the statement was inaccurate because it was based on the submitted packet, but not the information disclosed on May 19<sup>th</sup>. Mr. Love stated that a number of things occurred in the review that he believed needed to be fixed, but they were not appropriate to be discussed this evening.

Mr. Love read from page 64, the Staff's analysis of one of the appeal items. "The Land Management Code requires that the HPB review whether the application meets the design guidelines and Land Management Code. The HPB determination is independent of Staff's decision. The HPB shall conduct an original independent proceeding on the Historic District Design Review. The HPB needs to determine independently what facts the evidence supports and whether the facts meet the criteria to allow for movement of the house." Mr. Love reiterated that the issue for discussion this evening was only movement of the house. Other issues would be addressed at a later date by either the HPB or the City Council.

Mr. Love provided a history of how the process occurred. He stated that at 811 Norfolk and 817 Norfolk are two buildable lots, regardless of whether or not the historic house is moved. That fact is not disputed by Staff. He believed this was very relevant towards creating a better design and better streetscape for the entire neighborhood. Mr. Love noted that the pre-application was submitted on May 13, 2010 and a pre-application meeting was held on May 19<sup>th</sup>. He was out of town and participated via a conference call. However, Jonathan DeGray, the project architect, was present at that meeting, as well as one Staff from the Building Department and four Staff from the Planning Department. At the beginning of that meeting he disclosed that there had been a change in the application and conveyed to the Staff that he was purchasing the entire property. He also conveyed that another person was purchasing Lot 4 and the south three feet of Lot 5. Mr. Love believes that information is supported by Dina Blaes' comments at the bottom of the Post Meetings Notes and Post Meeting Comments, which states, "Applicant stated a preference for selling off part of the property, legal lot to the north." Mr. Love noted that her comment further states, "In that case, a move of the house could be considered, but must still meet the requirements of the LMC." Ms. Blaes further states that she visited the site and in her opinion, if the house remained intact, it could still meet the guidelines. Mr. Love noted that the Staff has determined that if the HPB allows him to move the house, it would still meet the guidelines and still maintain landmark status. He believed that fact was very important. Mr. Love felt it was unfortunate that Planner Cattan had not heard his disclosure in the May 19<sup>th</sup> meeting.

Mr. Love stated that following the May 19<sup>th</sup> meeting, Planner Cattan provided him with Staff notes for his review. On May 25<sup>th</sup> he was given a copy of Dina Blaes' staff note for review. He noted that it has always been Planner Cattan's position that he did not correctly convey his intention for the property. Mr. Love believed the problem was simply a matter that Planner Cattan had not heard his comment or she did not understand it. He was absolutely certain that he conveyed it. Mr. Love pointed out that even if Planner Cattan had not heard his disclosure on May 19<sup>th</sup>, she had the opportunity to read Dina Blaes' comments on May 25<sup>th</sup>. Mr. Love stated that a second DRT meeting was held on May 26<sup>th</sup>. He and Mr. DeGray were both present with five Staff members. A total of seven City Staff attended one or both DRT meetings. Mr. Love stated that they walked the property, discussed the movement, and talked about putting a basement under the home. After the second DRT meeting, there was no follow up Staff reports or additional comments.

Mr. Love read language from the design guidelines regarding relocation and/or reorientation of intact buildings, as read earlier in the meeting by Planner Cattan. Mr. Love stated that because the house could be moved and still maintain landmark status, he believed his application met all three of the criteria. Jonathan DeGray would further demonstrate compliance with the criteria in his presentation, as well as problems that could arise if the building is not moved.

Mr. Love referred to page 59 of the Staff report and read the Staff comment, "There are many examples of encroachment throughout town. The Building Department has been consistent in its policy to clean up any encroachments prior to issuing a building permit, by requiring a provision and an encroachment agreement or the movement of the structure so an encroachment would no longer exist." Mr. Love pointed out that he is unable to obtain an encroachment agreement. This is why he believes the third criteria would apply in this case.

Mr. Love stated that with respect to an encroachment agreement, it was clearly conveyed to Staff that the buyer of Lot 4 and the south 3 feet of Lot 5 would not give an encroachment agreement, and position has not changed. He noted that the Staff report contains an affidavit from Mr. Ludlow stating that he will not give an encroachment.

With respect to the pre-application requirements, Mr. Love referred to the LMC regarding the pre-application conference. The language indicates that the purpose of the pre-application is to identify potential impacts that may require mitigation. He referred to page 21 of the Historic District Design Guidelines, which states that, "The design review team will discuss the proposed project with the applicant so all parties have an understanding of the general scope of the project. The DRT will discuss the potential impacts of the project and identify issues that will require special attention or mitigation on the part of the applicant". Mr. Love reiterated that prior to purchasing the property, two DRT meetings were conducted and seven City Staff members attended one or both meetings. At no time did any of the City Staff mention an easement or an encroachment issue. In addition, none of the Staff reports or the letter from Dina Blaes mentioned any special attention or mitigation requirements in his application.

Mr. Love stated that in the pre-application meeting on May 19<sup>th</sup> he clearly stated that he did not own the property but it was under contract. He also believed it was clearly stated that the heirs of Ruth Staker owned the entire property. It was also stated to Staff that

when any application was made by himself and Mr. Ludlow, the properties would be legally split. The Staff was aware that the property was owned by one owner and when the application was made there would be two separate owners. The Staff also knew from the May 19<sup>th</sup> meeting that Mr. Ludlow would not grant an easement.

Mr. Love referred to page 52 of the appeal packet, the first paragraph and last sentence. The sentence read, "The Staff Planner provided the applicant with feedback based on the understanding that he was only purchasing Lot 3 and the northern portion of Lot 2 under Tax ID 138". Mr. Love stated that this was not a true statement. He noted that in the Staff report Ms. Cattan raised issues of moving the house, the basement, and the garage. He clarified that the garage completely sits on Lot 4 and the south 23 feet of Lot 5. Therefore, the Staff provided him with information on the entire site.

Mr. Love noted that following the first pre-application meeting, Dina Blaes stated that the applicant had stated a preference for selling off part of the property, legal lot to the north. Mr. Love emphasized that he clearly expressed his intentions, and he believed that was supported by Ms. Blaes' statement. Ms. Blaes had further stated that the house could move as long as it was intact, it was not re-oriented, it was not raised and it was not moved forward.

Mr. Love noted that the Staff report contained a letter he received from Staff on June 17, 2010, after he purchased the property and sold Lot 4 and the south three feet of Lot 5 to Rod Ludlow. The letter said that he had not provided accurate and complete information at the pre-application. He disputed that because he had fully disclosed everything he intended to do. He believed the Staff did not like the fact that he purchased the entire property and sold a portion, and therefore, said he created the encroachment issue. Mr. Love reiterated that the Staff knew that one person owned the entire property and they also knew that when application was made, two different people would legally own portions of that property. He found it puzzling because it implies that the Staff would be comfortable if the heirs of Ruth Staker had sold Rod Ludlow the property, but it was an issue that he sold it to Mr. Ludlow. He could not understand the difference. Mr. Ludlow legally purchased the property and it should not matter who he purchased it from. Mr. Love pointed out that if there was a reason why it mattered, the Staff had ample time to raise their concerns.

Mr. Love read Finding of Fact #14 in the Staff report, "An easement could have been secured for the encroachment of the historic house when the applicant sold Lot 4. An encroachment permit could have been obtained at the time of the sale." Mr. Love questioned why he would obtain an encroachment agreement when he had been through two DRT meetings and the encroachment was never mentioned as an issue. Without reason, he would not voluntarily do an encroachment agreement because it negatively impacts the value of his property and the property owned by Mr. Ludlow. It would also negatively impact the design of both houses.

Mr. Kozak restated their position and noted that it has never been disputed that there are two lots of record and one home, with the entitlement to have two homes. How well the homes can be designed and whether the application complies with the LMC is up to the HPB. Mr. Kozak stated that to the extent that the applicant has endured death by administrative paper cuts on this application, he asked the HPB to look at the substance of what is being proposed this evening.

Jonathan DeGray spoke about design issues and explained the benefits of moving the house. In addition to the streetscapes included in the Staff report, he provided three additional streetscapes based on the information they had on hand. Mr. DeGray stated that the variables in the streetscapes become an important aspect of the designs of the two homes. The first streetscape showed the existing home at 811 Norfolk being moved over 6-1/2 feet and the proposed home at 817 Norfolk. Mr. DeGray noted that the design application for 817 Norfolk is currently on hold pending review and determination of whether the home at 811 Norfolk can be moved. The design presented is preliminary and the Staff had already generated a preliminary report. Mr. DeGray stated that distance between the homes was 6-1/2 feet in the first scheme shown. The second example showed 3 feet of separation and a house jogging behind it. It creates a very tight appearance between the two homes and light would not be visible between the two buildings. In the final example, the homes were 6 feet apart, including the encroachment of 3-1/2 feet of the existing home at 811 Norfolk on to the property to the north. Mr. DeGray noted that this example would generate a home that is 15-1/2 feet wide. Based on language in the Staff report this evening, the third example may not be applicable.

Mr. DeGray pointed out that the widths of the homes on the top example followed a pattern of between 25, 24, 22, 32 and 35 feet, which is a pattern that appears to be desirable under Section B.1.7 of the design guidelines. He read, "regardless of lot frontage, the primary façade should be compatible with the width of surrounding historic buildings. The greater width of the structure should be set back significantly from the plane of the primary façade". Mr. DeGray explained that moving the house at 811 Norfolk back on to its own property and removing the encroachment, would set up the rhythm on the street that is desirable under guideline B.1.7. It is also reflected under B.1.8, referencing buildings constructed on lots greater than 25 feet wide. He noted that the Lot at 817 Norfolk is 28 feet wide. Mr. DeGray remarked that by moving 811 Norfolk on to its own lot and removing the encroachment allows the building on 817 to be a width that is in keeping with the other homes on the street. Showing an example where the house at 811 Norfolk was not moved, the width of the building on 817 Norfolk is 18 feet at best. Subsequently, if they are held to a 6 foot side yard setback, the building would only be 15 feet wide and totally out of character with the street.

Mr. DeGray requested that the HPB consider criteria B.1.7 in regards to the rhythm of the street and buildings along the street, and how that might apply to exception 3 in the guidelines, which allows the Planning Director and Building Official to make a special exception in this case.

Board Member Martz asked if the top rendering was part of the application before the last DRT meeting. He recalled a meeting where some of the issues were mitigated. Mr. DeGray replied that the example showing the home being moved was the plan that was accepted by Staff. He stated that the plan shows that the building would retain landmark status.

Chair Durst asked if both houses were designed by Mr. DeGray. Mr. DeGray answered yes.

Mr. DeGray and Mr. Love presented photos showing examples of existing homes where the homes are approximately 3 feet apart or less. Mr. Love believed the photos demonstrated that a better design is having more space between the structures.

Board Member White had a question on the different designs regarding movement of the house and retaining the landmark status. Mr. DeGray stated that the question was whether or not they could retain landmark status if the house was moved. They went through a design review that determined it would maintain landmark status. Planner Cattan clarified that the only part of the application that had not been approved was the movement of the home. Mr. DeGray clarified that the Staff denied the movement based on the technicalities outlined in the Staff report.

Mr. Love stated that Sandra Hatch did the conditions report for the house, and she is also a contract employee for the City. When the first denial came on December 1<sup>st</sup> and it was appealed, he hired her to review the Staff analysis. It was Ms. Hatch's professional opinion that if the house moves it would retain its landmark status. In turn, the Staff determined that with the modifications that were made, the house would maintain landmark status if it is moved.

Planner Cattan clarified that the current plan reviewed by Staff would retain its landmark status. If the HPB upholds the decision that the house cannot be moved, the Staff would need to re-evaluate the design looking at view of the house in its current location because more of the addition would be exposed. She noted that the applicant is aware that the design would need to be re-evaluated.

Board Member Martz asked if there had been any follow-up or re-evaluation from Dina Blaes since her letter dated May 25, 2010, with regards to the process that has taken place since that time. Planner Cattan replied that Dina Blaes had participated in meetings and helped with the process, but she had not provided further written comments.

Board Member Werbelow wanted to know the Staff's recommendation regarding the encroachment if there had only been one owner. Assistant City Attorney, Polly Samuels McLean, stated that from a legal standpoint, there was no encroachment issue when the property was owned by the Staker's because the entire property was owned by one owner. The encroachment issue came up when Lot 4 and a small portion of Lot 5 were sold. The encroachment issue relates to Lot 4, which is owned by a different person. Ms. McLean pointed out that the HPB was looking at this de Novo and their evaluation is the same scope as the Staff. If the Board sees other design issues relevant to a historic district design review, it is within their purview to raise those issues. Ms. McLean reiterated that the HPB was looking at this application anew. The history can give it context, but they need to look at it as though they were seeing it for the first time. The Staff's opinion is irrelevant because the HPB needs to determine whether or not movement of the house meets the criteria.

Assistant City Attorney McLean emphasized that movement of the house was the sole issue for the HPB to consider. Aside from that issue, the Staff believed that all other criteria of the guidelines had been met. The Staff did not believe the house could be moved under the requirements of the Land Management Code. Ms. Mclean stated that Mr. Kozak was correct in saying that public clamor should not affect the decision. The HPB should evaluate public comment for any evidence based on facts.

Mr. Love stated that in doing a title history they determined that Lot 3 was sold to a gentleman named Jones on April 23, 1889. He stated that the Sanborn Fire Maps shows a house on Lot 3 in December of 1889. It appears that the lot was purchased

and a home was built, but Mr. Jones did not own Lot 4. The house that was built encroached on to Lot 4 from its origination. Mr. Love stated that the encroachment existed until 1905, when Elizabeth Jones purchased Lot 4. He was uncertain of the relationship between Mr. Jones and Elizabeth Jones. Mr. Love stated that in his opinion, the current situation with the property is very similar to when it was originated in 1989.

Assistant City Attorney McLean clarified that from a legal standpoint, someone cannot give themselves an encroachment agreement. Encroachment only becomes an issue when the properties are occupied by separate parties.

Board Member White stated that from past experience, when a piece of property is sold and there is more than one lot, the standard City procedure was to first do a plat amendment to erase any property lines that exist within the property. He understood that Mr. Love purchased the property with the intent of selling off a portion, but he questioned whether Mr. Love should have gone through a plat amendment to erase the property line, which would have eliminated the encroachment.

Assistant City Attorney McLean replied that if the Staker's had tried to put an addition on the home when they owned it, the City would have required them to do a plat amendment to cure the encroachment by removing the lot line. Ms. McLean clarified that Lot 4 is a legal lot of record and the owner has the right to build a dwelling on that lot. The City addresses encroachment issues when there this a property line by either requiring an encroachment agreement, a plat amendment, or allowing the home to be moved.

Mr. Love stated that doing a plat amendment to remove the encroachment was not an option because it would create an unbuildable lot for Mr. Ludlow. The house encroaches 3-1/2 feet. If the lot line is moved 3-1/2 feet, Mr. Ludlow's lot becomes 24-1/2 feet, which is unbuildable.

Chair Durst opened the public hearing.

Jim Steinman, a resident on Norfolk Avenue, stated that if Mr. Love was allowed to move the house, he would be able to build two very nice livable structures. He noted that the Staker is no longer livable by a contemporary American Family. Mr. Steinman is a resident at 1100 Norfolk and the property line is off by a foot or more. Everyone on the block has that same situation. Mr. Steinman stated that property lines have nothing to do with where they built houses and placed fences many years ago. He supported moving the structure.

Sandra Morrison, Park City Historical Society Museum, felt the issue came down to the fact that the house would still retain its landmark status if it is moved. She noted that the City spent two years working on an inventory and deciding which structures were landmark and which ones were significant. This home was given landmark status because it retains its significance and its historic presence beyond most other structures. Ms. Morrison thought it was important to understand that the home at 811 Norfolk was put on the inventory at landmark status because it covered more than one lot and was built by someone with enough money to own more than one lot. Being owned by the Staker family provided additional history. Ms. Morrison encouraged the City to think about historic preservation as more than just retaining facades or portions of facades,

and think back to the initial discussion. Park City is a unique place and because of its uniqueness, historic homes are listed on the National Register of Historic Places as a mining town. It is the sum of all that makes Park City unique. In addition to facades, it also encompasses yards, fences, garages, and the entire history of the property. Ms. Morrison commented on the provision in the Code that made the home a landmark, and a separate provision that prohibits moving landmark structures. Moving it even slightly changes its sense of place and how they see history. It is important not to lose the full feeling of what life was like in Park City as you walk down the street. Ms. Morrison was surprised to hear Mr. Love say that the Staff did not tell him that he needed an encroachment agreement. She felt that information should have come from the real estate agent or others involved with the purchase. Ms. Morrison urged the HPB and the Staff to make sure the landmark status would not be affected if the house was moved.

Jim Steinman stated that he has lived in Park City 40 years and one of the many discussions over the years was that Main Street in reality was historic. However, when the old shacks in Park City were talked about, he recalled a statement that "none of the buildings were exactly what you would call historic, but maybe as a whole". At that time the whole was 150 or 160 whole buildings that had not yet been modified into what they are now. He stated that the historic neighborhood he lives in is not even a bad caricature of a historic district and he was unsure what they are even maintaining.

Katherine Matsumoto-Gray, a resident at 823 Norfolk, addressed the issue of retaining landmark status if the house is moved. She pointed out that the criteria for considering relocation of a historic house is that the significance would not be diminished and that it meets the items in the sidebar. Ms. Matsumoto-Gray agreed with the Staff evaluation that the application does not meet the criteria in the sidebar and that an encroachment agreement could have been secured at any point as a condition of the sale. She thought it was obvious that Mr. Love was aware that the encroachment existed because he brought that issue to the meeting when they discussed whether or not the house would be allowed to move. Regardless of who ultimately purchased the property, she believed there were ample opportunities to resolve the encroachment issue.

Katherine Matsumoto-Gray focused on the determination of significance if the house is moved. She read from page 4 of the guidelines regarding historical significance. Landmark sites have structures with the highest level of importance and not only convey the history of Park City, but are also physical representations of Park City's past influence in shaping a region and a nation. Park City's significant sites have structures primarily of local importance and define the fabric of historic Park City and reflect the communities past development patterns. Mr. Matsumoto-Gray argued that the location of 811 Norfolk is significant in conveying Park City history and the community's fabric and past development patterns. She believed that relocation of the house would diminish the significance of the site. Where it currently sits tells a uniquely Park City story. Ms. Matsumoto-Gray provided a brief history of the land and previous owners. She pointed out that the significance of 811 Norfolk lies not only in its structure but also in its story. Because of its history, she believes the home will lose its landmark status if it is moved, whether or not it meets the sidebar criteria. Based on the historic district guidelines, landmark sites and their associated buildings and structures must retain their historic integrity in terms of location, design, setting, materials, workmanship, feeling and association as defined by the National Parks Service for the National Register of Historic Places. Ms. Matsumoto-Gray stated that 811 Norfolk cannot maintain its landmark status if the location, setting and feeling are changed.

Chair Durst left the public hearing open for rebuttal following the applicant response to public comment.

Mr. Kozak referred to the comment that movement of the house in and of itself would remove it from landmark status. He noted that the landmark inventory was adopted February 4<sup>th</sup>, 2009. Those criteria are the same criteria currently in affect. If movement of the house in and of itself is grounds for losing landmark status, the Miner's Hospital would not be on landmark status. Mr. Love named other important sites such as the Whiskey Distillery and 802 Park Avenue. He stated that there were multiple examples of structures that were moved and still retained their landmark status. Mr. Kozak noted that those structures were moved under the current LMC and Mr. Love was entitled to that same consideration under Equal Protection of the Law.

Mr. Kozak thought this movement was unique because he was one of the first to have an objective criteria for wanting to move the house a specific distance. The objective is to cure the encroachment and there is objective sense for making this request.

Mr. Love was surprised by Ms. Morrison's comments since, the museum is a landmark structure and a considerable addition to the back changed that structure substantially.

There was no further public comment.

Chair Durst closed the public hearing.

Board Member McFawn thanked Mr. Love for his application and the public for taking time to express their comments. Board Member McFawn referred to page 57 of the Staff report, second paragraph, and the discussion of things such as arms length transactions, and why Mr. Ludlow was using an email address that matched Mr. Love's. He noted that no one had mentioned those issues this evening. His interpretation of the Staff report was that there was no arms length transaction when the northern lot was sold. Board Member Werbelow stated that it was a legal transaction and she did not believe it was relevant to this appeal. Board Member McFawn replied that if there was no arms length transaction, then it was not an actual equivalent of the sale. Board Member Werbelow explained that the property was transacted for \$200,000 and it was a legitimate real estate transaction.

Board Member White asked if it would still be possible to build a home on Lot 4 if the house at 811 Norfolk is not moved. Planner Cattan replied that Lot 4 is a legal lot of record and is still a buildable lot. However, any design would have to comply with the design guidelines. If the applicant were to include the 3 foot portion within their design, it would require a plat amendment.

Board Member White pointed out that the spaciousness of the existing streetscape would be lost if another structure was built next door to the existing historic house, because the site plan shows only three feet between the existing house and the proposed new house. If that could happen, he preferred to see the house moved, as long as it retained its landmark status. Board Member White thought a wider space between the two houses would be much more appealing.

Board Member Martz stated that the reality is that the house and the site will be impacted by the new addition, whether or not the home is moved. His preference would be to restore the house as is and keep it as a museum, but that is not reality. The applicant has gone through the process for the home at 811 Norfolk and regardless of a move, it will still maintain its landmark status. He understood the issues and how this came about, but the events happened as they did and the HPB now needs to make a decision. Board Member Martz agreed with Board Member White that if they cannot keep things as they are, it is better to move the house and establish a better streetscape, and still maintain landmark status.

Planner Cattan wanted to make sure their comments were within the framework of the criteria. If they support movement of the house, she asked that they also explain which criteria it meets.

Board Member Martz stated that he did not want to violate any of the criteria, but the HPB was asked to look at it anew and those were his comments.

Board Member Werbelow felt the HPB was charged to look at the facts, and the fact is that an encroachment exists today. In her opinion, why the applicant did not obtain an encroachment agreement was not relevant. The question is whether there is a mechanism to address that issue. She believed the mechanism was criteria one of the LMC, "A portion of the historic building or structure encroaches on a adjacent property." That criteria helps in her decision. She then needs to get comfortable with how it affects the landmark status. The definition of landmark has a list that includes, "retains its historic integrity in terms of location, design, setting, materials, workmanship, feeling and association." Board Member Werbelow stated that location is one of the criteria in that list. She appreciated the design feedback and history, however, the HPB was asked to look specifically at the encroachment issue and not the design per se. In looking at the aesthetics of the lot, it looks to be a more balanced presentation with the home being relocated. Board Member Werbelow had concerns about precedent setting, but she did not believe precedence would be an issue because this particular ability to relocate a home is already in the Code. They were not establishing new criteria that did not already exist in the LMC. Board Member Werbelow advocated the relocation under the criteria mentioned, however, her concern was how to make sure the home is not damaged if and when the home is moved.

Brian Guyer agreed that the encroachment exists as a matter of fact, and that is the issue to be considered. Whether or not the structure contributes to the feel of the neighborhood is not part of the decision. He found it difficult to separate the two issues, but he had to follow the facts.

Chair Durst stated that assurances that the integrity of the existing structure would be protected if it is moved, is the purview of the Planning and Building Departments. There would be continual inspections and both departments would make sure the integrity was not been compromised in any way.

Chair Durst noted that they were talking about two criteria under the guidelines. One is landmark significance, which they established would not be compromised. The second is historic integrity and whether it can be sustained with this proposal to rebuild on the site. He did not believe that could be measured prescriptively and it is the judgment the

HPB was called upon to make. In his personal opinion, Chair Durst believed the integrity had been sustained.

Chair Durst pointed out that the HPB had four options. They could deny the appeal, approve the appeal with conditions, continue the hearing, or approve the application as presented.

Assistant City Attorney McLean summarized that the HPB was focusing on the first and the third criteria. She understood from their comments that two Board members felt there were unique conditions due to the rhythm of the street and the streetscape. Ms. McLean noted that the Staff would need to make findings to support that decision and the decision needs to be based on the criteria. Ms. McLean understood that two people agreed that there was an encroachment and they considered the fact that an easement could not be secured. Regarding Board Member McFawn's comment regarding an arms length transaction, Ms. McLean stated that the HPB could evaluate that fact in terms of whether the information meant an easement could or could not be secured.

Assistant City Attorney McLean requested that the Board members frame their motion to relate to the criteria and be specific in terms of whether they believe one or both of the criteria apply.

Planner Cattan stated that if the HPB makes a motion to approve, she wanted to know how the conditions of the design review would play into the approval. Ms. McLean replied that part of the motion would be that if the HPB determines that the movement of the house can occur, the conditions of the design that was submitted in January and approved by the HPB under the historic district guidelines would apply. Any other conditions relevant to preserving the historic fabric should be deferred to Staff.

Board Member Werbelow clarified that the motion should refer to the specific date the application was approved to make sure all of the changes made in the application would carry. Ms. McLean stated that they should refer to the plans dated January 13, 2011 as the specific date. Board Member Durst understood that the HPB would only be approving movement for 811 Norfolk, and that their decision would not have any relation to 817 Norfolk. Ms. McLean replied that 817 Norfolk was a separate issue and would require its own process.

Ms. McLean emphasized that the HPB should refer to Staff for additional conditions. The issue for the motion is the movement of the house. Mr. Kozak assumed the applicant would be subject to conditions that are normally found in every approval by stipulation. Board Member Werbelow favored the idea of incorporating the third condition regarding the streetscape and visual impact as articulated by Board Member White.

Chair Durst called for a ten minute recess to draft language for a motion.

The meeting was resumed.

**MOTION:** Board Member Werbelow made a motion acknowledging that an encroachment exists at 811 Norfolk Avenue and that an easement cannot be achieved. Because the relocation as proposed does not otherwise compromise the landmark

| status or the historic integrity, and that ~~innate-unique~~ conditions exist, the January 13<sup>th</sup>, 2011 proposal is approved. Board Member White seconded the motion.

Board Member McFawn cautioned the Board to consider what could occur in the future. As more properties are sold, he believed they would see more applications resulting from people who do not check their property lines because lots can be sold without easements.

VOTE: The motion was approved 5-1. Board Member McFawn voted against the motion

Meeting adjourned at 7:20 p.m.

Approved by \_\_\_\_\_  
Roger Durst, Chair  
Historic Preservation Board

KATIE CATTAN: Yes.

DAVID WHITE: Or does that go away?

KATIE CATTAN: It has to be approved through the design... it has to be comply with the design guidelines but it is a buildable lot.

DAVID WHITE: But it's possible that another house could go there?

KATIE CATTAN: It's a legal lot of record. And if they chose to include the 3 foot portion within their design they'd have to go through a plat amendment for that but they could build on lot 4.

DAVID WHITE: So, in fact, the spaciousness of this existing street scape could go away. You know the space that's next door to the existing historic house, the open space there, could completely be gone.

KATIE CATTAN: No, as proposed, there's a 15 foot area to the north.

DAVID WHITE: No, I'm talking...

KATIE CATTAN: Are you talking between them?

DAVID WHITE: No, this particular site plan...

KATIE CATTAN: Oh

DAVID WHITE: shows that there's only 3 feet between the existing house and the proposed new house. Where I'm going with this is, on the top street scape I think if, if, if that's the case... if all that can happen I would rather see the house moved if it retains its Landmark status. And I think the wider space between the two houses is going to be much more appealing than having them close together.

ROGER DURST: Ken?

KEN MARTZ: I have a few comments. I guess the reality is that this house is going to be impacted and do I wish that we could restore the house to this exactly and keep it at as a museum? Yeah, I would like that but the reality is that, you know, we're almost there, whether it's moved or not, is that the house and the site is going to be impacted by the new addition and the lot next door is a buildable lot. So and the fact that, you know, you've pretty much gone through the process as far as 811 in terms of the overall situation and that whether or not its moved it's still going to maintain its Landmark status and it's going to be impacted anyway whether we do the lot line or not. And I know that maybe there's a lot of issues about how this came about but the fact is that we're there and we this decision to make. I'm I guess in favor and a little bit like David is that given where we're at now and, I think, and given that we can still retain its, you know, Landmark status with the, you know, you know it's not gonna be moved forward, you know, it's gonna move sideways to the south I guess it is. This seems like a more viable plan even though, you know, I wish, you know, we weren't doing anything to the house at all except remodeling it but I just think that the best way to go is to move the house and think it would establish as it said in the packet a better street scape and still maintain the most important thing, maintain its historic Landmark status.

KATIE CATTAN: So are you placing that with the unique conditions? It's just, I just want to make sure that its within the framework of one of the three criteria that it complies with, also in your comments. So if you support the movement of the house, please also explain the criteria you believe it meets; the encroachment or...

KEN MARTZ: Well I...

POLLY SAMUELS-MCLEAN: Well and maybe we should hear everybody and then maybe I can summarize based on the comments as well.

KEN MARTZ: I'm just moving towards that, yeah, and that's and... I certainly don't want to violate but, any of the criteria, but I think its, you know, we're looking at it anew and those are my comments.

ROGER DURST: Sara?

SARA WERBELOW: Thank you. So I feel that we are charged to look at the current facts and the fact of the matter is that there is an encroachment that exists today and why the applicant didn't get an encroachment agreement is not relevant. This is my opinion, there could have been given an encroachment agreement, again, is not relevant. There is an encroachment that exists today. So, what I have to ask myself as I'm drilling down is; is there a mechanism to address that issue? And there is in the criteria clearly stated in the Land Management Code, criteria 1 'portion of the historic building or structure encroaches on adjacent property.' So it meets that criteria. So when I look at that it helps me make my decision and then I have to, in my mind, get comfortable with how it affects the Landmark status. And when I look at the definition of Landmark status we have the list that it retains its historic integrity in terms of location, design, setting, materials, workmanship, feeling and association. So location is one of the criteria in that list. The other thing is I appreciate the design feedback and history from the architect, thank you. I don't think we're evaluating the design, per say, I think we're looking specifically at the encroachment issue but I do appreciate the explanation of the design implications and just looking at what I see on the esthetics as far as the lot is concerned it looks to be a more balanced presentation with the home being relocated. One other thing that I wanted to get comfortable with is; I was concerned about precedent setting. And I don't feel that this is precedent setting because this particular ability to relocate a home is already in the code. So we're establishing some criteria that doesn't already exist at our disposal in the Land Management Code. It's my key concern, I'm advocating the relocation under the criteria I just mentioned. My concern would be if and when the home is moved

how do we preserve, how do we make sure that it's not damaged or weakened in the transition. How can that be, be addressed and dealt with. That's all.

ROGER DURST: Thank you. Brian?

BRIAN GUYER: I don't think I'm gonna say anything that hasn't already been said. I don't... I think criteria one and the encroachment exists and that's, I think, that's a matter of fact and that's kind of what we're considering today. We're considering whether or not this structure, kind of, meet... agree with the feel of the neighborhood. I think it's hard for me to kind of separate myself from that but all we're considering today is whether or not the encroachment exists. And I think it does.

ROGER DURST: Thank you Brian. To speak to your question, Sara, with regards to the assurance that the integrity of the existing structure were to be moved I think that is the purview of the Planning and the Building department in making that there would be continuing inspection and they would assure that that had not been compromised in any way. The other comment that I wanted to make with regard to this is that we're talking about two criteria under the guidelines and that is; Landmark significance, we've indicated that that has not been compromised. The other is something called historic integrity. And I don't think that those can be measured prescriptively. That is the judgment that we are called upon to make. Are we sustaining what is determined to be a historic integrity of this proposal to rebuild on this site? In my personal judgment I think the integrity has been sustained. With those comments, unless somebody else has something, I would entertain a motion. We have really four options open to us; we can deny this appeal, we can approve the appeal with some conditions, we can continue the hearing, and the other one is to accept the application.

POLLY SAMUELS-MCLEAN: And just to give you some guidance and based on the comments I've heard. So the two criteria that everyone is focusing on is... are the first one and the third one. And I would ask that you... so what I heard was two people were in support because and I would frame it in terms of that the rhythm of it that you felt that there were unique conditions because of the rhythm of the street and the street scape. I'm seeing David nod. If you guys can comment to that depending on how the, you know, what the motion is, staff needs to make Findings to support your decision and your decision needs to be based on the criteria. I also heard two people say that they felt that there was an encroachment and that they felt that the other facts; that an easement could not be secured basically is the way that the standard is. So just to get back to Dave McFawn's question about the arm's length that was for you to evaluate in terms of whether or not you felt that information meant that an easement could not be secured or not. So I heard two people, two commissioners, say that they felt that the easement existed and could not be secured. So... I'm sorry, an encroachment easement. So based on that if I could just ask you to kind of maybe prior to a motion or as part of a motion just try to frame that a little bit in terms of the criteria or if you think that my summary was correct maybe the motion be specific whether you believe that one or both of those criteria have been met.

KATIE CATTAN: Can I ask one question? Typically with the design review at this point if they made a motion to approve the conditions on it would be the conditions for the design through the whole process. And typically we a conditions list that's about 15 to 20 conditions that go along with the design review. So how will that play?

POLLY SAMUELS-MCLEAN: I would think that the, well I guess part of the motion is that the standard conditions can apply. Clearly there was always concerns about the preservation plan be abided by and all of those things. So I think that here the question was just whether or not the movement can happen and if the movement can happen then the design as was submitted, I can't remember the date but in

January but that is the design that has been approved by the historic district... under the historic district guidelines but any other conditions would, they are relevant to just in terms of preserving the historic fabric, that type of thing, should be deferred to staff.

SARA WERBELOW: So I think it's specifically what Katie just said and that is they application that was approved on X date by the staff. It's really specific. Does it have to refer to that date? Probably needs to refer to that specific date so that all of those changes that were made in the application will carry.

KATIE CATTAN: January 13.

JEFF LOVE: I think so.

POLLY SAMUELS-MCLEAN: January 13 was the date of the revised plan. And then the DRT meeting is January 19. And then the action letter was January 26.

SARA WERBELOW: So what's the final date?

POLLY SAMUELS-MCLEAN: I think you can refer to the plans dated January 13.

ROGER DURST: Clarification for me, we are approving, if we were to move to approve this relocation; this is for 811. This has nothing to do with 817.

KATIE CATTAN: Correct.

ROGER DURST: That's another issue that could come before us.

KATIE CATTAN: Yep, but, yep.

POLLY SAMUELS-MCLEAN: Right, 817 is its own. It also has to go through a historic district design.

ROGER DURST: Same process.

KATIE CATTAN: And my, just my other point was that typically with an approval from planning department there's say 15 conditions of approval. One would be that a plat amendment is required and must be recorded prior... the lighting must comply with the lighting ordinance. Like there's just these other ones that I would like...

POLLY SAMUELS-MCLEAN: I would suggest that you just refer to staff for those additional conditions I think that the issue here is just the movement of the house and not have concern about those other conditions not being required there.

MARK KOZAK: And we, we can stipulate to that. But the ones you'd ordinarily find in every approval we would be subject to those same ones by stipulation. Yeah.

SARA WERBELOW: I just I do like the idea just of when we frame this motion of incorporating the third condition of well David for the reason that you lay out. You articulated that much better than I can but that's...

DAVID WHITE: What did I say?

SARA WERBELOW: The street scape concept that sets the visual impact.

KEN MARTZ: Shouldn't we refer to the conclusion of law? And address that.

DAVID WHITE: Right. Go ahead.

DAVID MCFAWN: Yeah but it would...

ROGER DURST: I wonder if we should recess this for a moment and see if we can't articulate this and see if we can come up with some wording and then move ahead. Does that seem reasonably? We'll take 10 minutes.

ROGER DURST: ... the historic preservation board. I believe we have a motion. Go ahead Sara.

SARA WERBELOW: So we are acknowledging that an encroachment exists at 811 Norfolk Avenue and an easement cannot be achieved. And because the relocation as proposed does not otherwise compromise Landmark status or historic integrity and that unique conditions exist the January 13, 2011 proposal is approved.

ROGER DURST: Is there a second?

DAVID WHITE: Second.

ROGER DURST: It's been moved and seconded. Any discussion?

DAVE MCFAWN: I'd caution... I'd caution us to consider what happens down the road just when, as more properties get sold, we can end up having a lot of these come before us where people don't check their property lines, right, because they can sell without easements. So I caution us to think about what we vote for.

ROGER DURST: Are there any other comments? On the motion, all those in favor? Aye.

SARA WERBELOW: Aye.

DAVID WHITE: Aye.

BRIAN GUYER: Aye.

ROGER DURST: Opposed?

DAVE MCFAWN: Opposed.

ROGER DURST: Motion carries.

JONATHAN DEGRAY: Thank you.

JEFF LOVE: Thank you.

**MINUTES OF JUNE 20, 2012**

PARK CITY MUNICIPAL CORPORATION  
HISTORIC PRESERVATION BOARD  
MINUTES OF JUNE 20, 2012

BOARD MEMBERS IN ATTENDANCE: Sara Werbelow, Puggy Holmgren, Dave McFawn, Kathryn Matsumoto-Gray, Judy McKie

EX OFFICIO: Thomas Eddington, Kayla Sintz, Polly Samuels McLean, Shauna Stokes

---

## ROLL CALL

Chair Werbelow called the meeting to order at 5:16 p.m. and noted that all Board Members were present except David White and Alex Natt who were excused.

## WORK SESSION

Historic Sites Inventory – Nomination Discussion

Planner Sintz reported that the City Council and Staff were requesting input from the HPB Board on the Historic Sites Inventory Nomination process. On May 2, 2012 the HPB discussed the process and provided input, which the City Council discussed at their May 17<sup>th</sup> work session. The minutes from both meetings were included in the Staff report. The City Council discussion was very broad and the Staff was directed to craft options, including an option for additional public input. When the Staff presents the options to the City Council they will direct the Staff to make changes. The changes could be in the form of a Land Management Code amendment; therefore, it would not come back before the HPB. However, the Staff would provide updates to the Board.

Planner Sintz noted that Board member Matsumoto-Gray had contacted the Staff for further discussion. It was scheduled as a work session item this evening to allow a formal discussion with the entire Board.

Board Member Matsumoto-Gray recalled from the last discussion that the Board has the ability request that a site be researched and a nomination presented; and that the Staff was the appropriate body to do the research of historical significance. Board Member Matsumoto-Gray remarked that she needed clarification on the difference between request for nominations, a nomination, research and recommendation, and determination. Currently, the Staff nominates the structures for the Historic Sites Inventory. She understood that to mean that the HPB could request that the Staff research a property for significance. Once the research is completed, the nomination is bringing forward a recommendation to list the property on the inventory. If the Staff does the research and finds that it does not meet the criteria, it would not come back to the HPB because it would not be nominated.

Board Member Matsumoto-Gray felt that nomination and determination of significance were bundled together in one step. She agreed that the Staff was the body to do the research and provide a recommendation. However, she suggested that the HPB should be able to officially nominate a site and that the research and the recommendation should be a second step. Another option is to change the nomination process so the

HPB can see the outcome of the research on properties that are not eligible for nomination.

Director Eddington clarified that every year the Staff brings nominations to the HPB based on research, data collection, and information provided by Dina Blaes, and sites are added to or removed from the Historic Sites Inventory. He remarked that 920 Empire was a property that presented the greatest challenge. The Staff reviewed the site and questioned some of the data and analysis. Based on their concerns, the Staff requested that the applicant do an intensive level survey because the information was unclear. The applicant complied and the Staff conducted an independent survey that focused on the entire property. Therefore, two intensive level surveys took place simultaneously on that property. When the information came back it did not meet the criteria and the site was not nominated.

Director Eddington suggested a change in the process, whereby if the Staff requests an intensive level survey by the applicant, it would come before the HPB since it would not be a nomination at that point. Planner Sintz noted that one idea discussed was that any intensive level survey would automatically trigger a determination of significance. That process is already set up in the Code and allows a public hearing. Regardless of whether a site goes on the HSI or is removed from the HSI, it goes through the same process. Planner Sintz believed the suggested process would address everyone's concerns.

Chair Werbelow asked if the intensive level survey addressed the process Board Member Matsumoto-Gray was looking for. Board Member Matsumoto-Gray stated that if the HPB has the purview to determine whether a site should be on the HSI, it was inappropriate for that decision to be made elsewhere. Chair Werbelow clarified that Board Member Matsumoto-Gray was making the point that the HPB only has the opportunity to make that determination when it is a positive recommendation from Staff. Board Member Matsumoto-Gray answered yes. She preferred a process that sends it to the HPB anytime an intensive level survey is requested by either the Staff or the HPB. Director Eddington pointed out that the HPB currently has the ability to direct Staff to research a site that is not on the list or to suggest an intensive level survey.

Board Member McKie asked about requesting an emergency meeting. She remarked that the HPB was told they could request an intensive level survey, but when they wanted to do it they were told it was not necessary because the research was done and the intensive level survey was not needed.

Assistant City Attorney McLean stated that the HPB needs to be proactive and the difficulty is trying to find a balance. The applicant has a right to rely on the status of the building as it was when they submitted the application. There should not be a need for emergency meetings because if the historic status of a structure is questioned, it needs to be looked at prior to when it was vested. Ms. McLean understood that there have been discussions about doing an intensive level survey on a whole district, which could alleviate some of the problems of determining the status of individual structures.

Board Member McKie clarified that her comment was more about the HPB having the ability to make the decision. The Board was told that they had the ability to call an

emergency meeting and request an intensive level survey, and she always thought it was a tool they could use at their discretion. Board Member Matsumoto-Gray agreed, and asked about the HPB process for requesting an intensive level survey.

Director Eddington remarked that if an intensive level survey was already done on a property, there would be no reason to do another one, even if it was requested by the HPB. Board Member Matsumoto suggested the possibility that there could be additional information available since the time of the first survey. Board Member McFawn believed that one intensive level survey was sufficient because all available information would have been researched. He felt the problem was that many of the properties on the HSI Inventory had not gone through an intensive level survey. Director Eddington replied that this was correct. When the list was adopted in 2009 the properties were surveyed, but the City Council did not allocate funds for intensive level surveys on all structures. The Staff had done a thorough analysis and survey of all the sites, but it was not as extensive as an intensive level survey on each site. Some structures have gone through an intensive level survey, but most have not.

Director Eddington stated that the City Council was considering allocating funding for a three-year process to do intensive level surveys on National Register Districts and landmark and significant buildings. It would then move out to the significant buildings in other Districts. He thought that process would alleviate the need for intensive level surveys. However, in the interim, if the HPB thinks a neighborhood or area should be focused on, they need to be proactive and inform the Staff. Director Eddington used 16 Sampson Avenue as an example.

Board Member Matsumoto-Gray suggested that nominations for the Historic Sites Inventory be defined as the Staff or the HPB suggesting an intensive level survey on a property. Board Member McFawn remarked that just because the HPB does not request an intensive level survey would not mean that it should not be on the list. Board Member Matsumoto-Gray clarified that moving forward, if they want to nominate a property to the list it would require a survey; but it would not always have to be an intensive level survey. She wanted to work out what "nomination" means in this process. If you know everything about the property and it meets the criteria, that would be "determination" rather than "nomination".

Assistant City Attorney McLean thought the comments this evening were 180 degrees from the last discussion. Board Member Matsumoto-Gray believed they were missing the first step. The Staff process, which is called nominating, is the second step in the process. The first step should be to look into the property as a possible Historic Sites Inventory candidate. Director Eddington was unsure whether the HPB would have the power to both nominate and designate. Under the current process, the HPB can request that the Planning Department conduct the appropriate analysis. If the initial analysis shows that the property warrants an intensive level survey, the Staff would conduct that survey. As a result of that intensive level survey, the Staff could require a determination of significance, which would come before the HPB.

Board Member Matsumoto-Gray stated that her intent is to have a formal process for requesting an investigation into potential significance. Board Member McFawn thought the process could be a vote by the HPB. Board Member Matsumoto-Gray was

comfortable with a vote by the HPB, as long as the Staff would definitely follow up on that property. She asked if the request needed to be a vote by the entire Board or whether it could be suggested by one or two Board members.

Assistant City Attorney McLean outlined the current process. At this point the only people entitled to nominate a property is the owner or the Planning Department. The Planning Department is used as a filter to evaluate whether or not to bring those nominations to the Board. Ms. McLean believed that when this matter was previously discussed, the Board had indicated that they were comfortable with the process. However, she was now hearing suggestions to expand the HPB's role to be the decision makers on whether an intensive level survey is required. Ms. McLean thought they would be casting a wide net because the Board would become both the nominator and the one determining significance.

Chair Werbelow asked if there was a middle point where the Board would not be nominating; but there would be another mechanism for the Board to formally bring something to the Staff's attention. Ms. McLean stated that if the HPB asked the Staff to do an intensive level survey of a property and the Staff evaluated it and determined that the property did not meet the threshold for nomination, the HPB would be updated during the Staff Communications portion of their meeting.

Board Member Holmgren understood from the discussion that they were looking for a procedure for a request. She thought time could be set aside at every meeting to discuss properties that Board members might be interested in pursuing. It would not be a nomination but the Board would be requesting additional information. The request would be in the minutes and officially recorded.

Board Member McFawn commented on the importance of getting feedback and guidance from the Planning Department to make sure they do not make so many requests that it depletes the allocated funds. Rather than do an entire section or neighborhood, they could pick out the questionable structures in each neighborhood and rule them in or out. Director Eddington reiterated that the intensive level surveys would start with the National Register District first because those are the cream of the crop properties. They would then move into landmark and then into significant. He noted that the Board currently has the right to suggest that the Planning Department do an analysis on a specific site. The Staff would conduct that analysis and report back to the HPB. He pointed out that the Board needs to be very proactive in that process. Board input would help the Staff compile a more thorough list.

Board Member Holmgren liked the idea of having their discussions in the minutes and for the Staff to provide regular updates.

Board Member McKie was under the impression that when structures are researched and analyzed it does not come back the HPB. However, Ms. McLean indicated that the Staff would report back to the HPB on the results of the analysis and the determination of the structure. She used 920 Empire as an example for purposes of discussion. Board Member Matsumoto-Gray pointed out that there definitely was new information on 920 Empire, but the information did not change the recommendation for the decision. She understood that if the recommendation had changed it would have come back to the

HPB. Director Eddington explained the entire process for 920 Empire and why the applicant was required to do an intensive level survey. The Staff also did an intensive level survey internally to examine a larger portion of the property to include the primary structure as well as the accessory structure. Director Eddington stated that the new information made the structure less historic than what they originally thought.

Director Eddington explained that if the Staff requires the applicant to do an intensive level survey, as a policy they could require them to do a determination of significance as a result of the intensive level survey, and bring it before the HPB. Board member Matsumoto-Gray remarked that the process as outlined by Director Eddington would give the neighbors avenue to hear the results of the intensive level survey to understand why a certain decision was made.

Assistant City Attorney McLean referred to the City Council minutes attached to the Staff report and noted that the City Attorney had expressed concern with balancing the property rights and predictability. If a property is nominated, the homeowner is faced with potential restrictions that could change what he was originally able to do with his property. Ms. McLean remarked that the City Attorney had suggested a timeline when people could expect properties to be reviewed. She emphasized that the concern from a legal standpoint is that it becomes ad hoc. It was important for the HPB to understand that Utah is a very pro-property rights State, and to think about what they want to achieve within that context. Board member McFawn asked if the timeline could be twice a year. Ms. McLean answered yes.

Board Member Holmgren asked if an owner could decline the nomination if the analysis changes the historic designation of their home and what they would be allowed to do with their property. Director Eddington replied that the HPB would make that decision.

Board Member McFawn pointed out that this was why Ms. McLean was concerned about an arbitrary and capricious policy. There needs to be a formalized process in terms of how sites are reviewed and nominated. He suggested May and October, so they could look for suggested properties during the winter and again in the summer.

Board Member Matsumoto-Gray thought the Board should consider formalizing a twice a year policy. Board Member McFawn suggested that for the short term they speed up the time frame of identifying potential properties in question. The Board has the choice to be proactive and if they bring nothing to the table that responsibility falls on them. Board Member Matsumoto-Gray felt it was important to specify that if an application comes in and the Staff requests an intensive level survey, it can occur at any time and is not restricted to the twice a year schedule. Those applications would still trigger a determination of significance hearing before the HPB.

Planner Sintz summarized that there were two suggestions from the HPB to the City Council. One would be for a semi-annual nomination review. The second is that an intensive level survey would trigger a determination of significance. Board Member McFawn emphasized the importance of making sure their discussions are reflected in the minutes. Therefore, if something is handled at the Staff level, it should still be incorporated in the minutes as an update to the HPB.

Assistant City Attorney McLean stated that the Staff should also notify the Board when the discussion appears on the City Council agenda so a representative from the HPB could attend.

## REGULAR MEETING

CHAIR Werbelow opened the regular meeting of the Historic Preservation Board.

## ADOPTION OF MINUTES

### April 4, 2012

MOTION: Board Member McFawn moved to APPROVE the minutes of April 4, 2012. Board Member Holmgren seconded the motion.

VOTE: The motion passed unanimously.

### May 2, 2012

MOTION: Board Member McKie moved to APPROVE the minutes of May 2, 2012. Board Member Matsumoto-Gray seconded the motion.

VOTE: The motion passed unanimously.

### May 29, 2012

MOTION: Board Member Holmgren moved to APPROVE the minutes of May 29, 2012. Board Member McFawn seconded the motion.

VOTE: The motion passed unanimously.

## PUBLIC COMMUNICATIONS

There were no comments.

## STAFF/BOARD COMMUNICATIONS AND DISCLOSURES

Director Eddington reported that Sara Werbelow and Alex Natt were stepping down from the Historic Preservation Board. Ms. Werbelow has been on the Board for three years and he thanked her for her service. Ms. Werbelow stated that she enjoyed her time on the Board and she is very committed to historic preservation.

Director Eddington introduced John Kenworthy and Marian Crosby, the new members to the HPB.

Director Eddington noted that the next scheduled HPB meeting was July 4<sup>th</sup>. Since it was a holiday, he asked if the Board preferred to wait until the first Wednesday in August, or schedule a meeting on July 18<sup>th</sup>. The Board agreed to meet on July 18<sup>th</sup>.

Director Eddington reported that Kayla Sintz was leaving the Planning Department. Her last day is July 13<sup>th</sup> and this would be her last HPB meeting. Director Eddington stated that Kayla has been a tremendous asset as both a planner and architect and she would be missed.

REGULAR AGENDA – Discussion/Public Hearing/Possible Action.

National Historic Preservation Award

Planner Sintz noted that at the last meeting the HPB toured several properties; some of which were under the old guidelines and others that were under the new guidelines. The tour provided a mix of different things for the Board to consider. The tour ended with the Washington School Inn. A significant number of the public accompanied them on the tour.

The Staff was looking for direction as to whether the Board was ready to nominate a site or whether they needed time for more research.

Board Member McKie asked for a status update on the Washington Inn School related to compliance issues. Planner Sintz believed the application would be heard by the Planning Commission in August.

Board Member Matsumoto-Gray felt the tour was helpful. She thanked the members of the public who joined them and provided input. She asked if the Washington School Inn was renovated under the old or new guidelines. Planner Sintz replied that it was under the new guidelines. Board Member Matsumoto-Gray favored the Washington School Inn for the award because it is a semi-public building and people can stop by and see the example set by this award. She believed it was a great addition to Old Town.

Board Member McKie was involved in the Historic Home Tour the previous weekend and everyone was talking about the Washington School Inn being the most exciting site on the tour. She also favored the Washington School Inn for the award.

Board Member McFawn asked if the Washington School Inn would fall into one of the categories listed on page 59 of the Staff report. Board Member McKie thought that Excellence in Restoration was an appropriate category for the Washington School Inn site. Another appropriate category was Adaptive re-use. Board Member McFawn thought it was a beautiful property and he was comfortable recognizing them with the award this year.

Board Member McKie asked if the Staff thought the Washington Inn School would qualify based on their application. Director Eddington believed they were in the midst of remedying their situation. Planner Sintz remarked that the problem was that the applicant had to modify their original approval. Board Member McFawn noted that the Historic Preservation Award program is not tied to a particular status. He thought the Board could choose the Washington Inn School as the recipient based on the job they did renovating the building and the fact that it is a great adaptive reuse. Planner Sintz stated that the issue was not related to the status of the structure but rather to the use. In terms of adaptive reuse, the modification that came forward is related to the use and

has put it into jeopardy. The issue is the bed and breakfast, the exterior pool on the outside and the use of the site.

Planner Sintz explained that the Washington School Inn previously had a CUP for a bed and breakfast. Two years ago they came in and requested a pool in the rear. Because it is in the HR-1 Zone, a CUP is required for a bed and breakfast, which they had. Because it is a residential zone, a CUP was required for a pool or a bed and breakfast use. The pool was designated as recreation public/private and a number of concerns needed to be mitigated for the neighbors, such as lights, pool access, noise, landscape buffer, etc. When the project came forward they had excluded a lot that was not part of the plat amendment. However, when built, the lot was actually included as part of their use and that was never contemplated. Therefore, the use spills over into an area where it was not approved to occur, which created the issue. Planner Sintz noted that the Planning Commission could deny the application or make additional changes. How they would address the issue was unknown at this point.

Assistant City Attorney McLean pointed out that the Washington School Inn still has a temporary certificate of occupancy. One consideration is whether they should grant an award to a structure that does not have a permanent certificate of occupancy. On the other hand, it could be viewed as the pool does not affect the historic status or the adaptive re-use. Board Member McFawn thought the Board could recognize the improvements to the building over the course of the last five years.

Board Member McKie remarked that the building has been used as a bed and breakfast for a number of years. She felt that Excellence in Restoration was more appropriate than Adaptive Re-use. Excellence in Restoration of the Building would eliminate the issue with the pool.

Board Member Matsumoto-Gray believed there would be some sensitivity to a City Board granting an award to a property that did not follow the rules.

Assistant City Attorney recommended that the HPB forward a recommendation to the Public Art Board to help choose an artist. Board Member McKie asked if the recipient needed to be chosen before the HPB could start talking to the Arts Board. Chair Werbelow believed it would be difficult to choose an artist without knowing the structure. Director Eddington thought an artist could be chosen to do a building without knowing the specifics at this point. He agreed that the HPB could wait on the nomination and begin the artist selection process.

Director Eddington thought there was general consensus for considering the Washington School Inn. The Staff could tell the Arts Board that the art piece would be The Washington School Inn or another Old Town structure. Board Member Matsumoto-Gray stated that she was meeting with the Arts Board Chair that evening and offered to talk to her about it.

The Board discussed the type of artwork they preferred and the size. Assistant City Attorney McLean remarked that the Arts Board is delegated to make recommendations to the City Council for art within public spaces in the City. Last year the HPB was unaware of the process to involve the Arts Board. Now that they understand the

process, they have to honor that jurisdiction. Ms. McLean noted that a Board member could attend the Arts Advisory Board Meeting when this particular artwork is discussed.

Board Member Matsumoto-Gray summarized that she should tell the Arts Board Chair that the HPB was looking for artwork that represents the recipient building and the piece would be displayed at the Marsac Building. Board Member Matsumoto-Gray stated that the HPB could provide input, but she thought the Arts Board was much more qualified to choose the appropriate artist and art form. Director Eddington clarified that last year the original piece was displayed in the Marsac Building and the recipient received a digital copy of the image, as well as a plaque.

Board Member McKie agreed that the Arts Board has the expertise, but she felt it was important for the HPB to be involved in the discussion and have input on the type of art.

In terms of the financial element, Director Eddington stated that the City has committed to funding the artwork up to \$1,000. Assistant City Attorney McLean suggested that Director Eddington communicate with Sharon Bauman, the City's representative to the Arts Board, to make sure the item gets scheduled on the next agenda.

The Board discussed timing and when they would know if the Washington School Inn would be eligible to receive the award. Planner Sintz estimated that the Washington School Inn application would not be scheduled for the Planning Commission until August. The HPB could continue their discussion in July. Planner Sintz stated that the Staff would update the HPB at the July 18<sup>th</sup> meeting.

Board Member McFawn thought the HPB should choose another structure in July if the Washington School Inn is delayed in going to the Planning Commission beyond August. Another option would be to not give the award this year and look for a recipient next year.

Assistant City Attorney McLean informed the Board that they needed to elect a new chair at their next meeting.

The meeting adjourned at 6:38 p.m.

Approved by: \_\_\_\_\_  
Sara Werbelow  
Historic Preservation Board

## **MINUTES OF JULY 18, 2012**

PARK CITY MUNICIPAL CORPORATION  
HISTORIC PRESERVATION BOARD  
MINUTES OF JULY 18, 2012

BOARD MEMBERS IN ATTENDANCE: Puggy Holmgren, Dave McFawn, Katherine Matsumoto-Gray, David White, Marian Crosby, John Kenworthy

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

---

REGULAR MEETING – Discussion, Public Hearing and Possible Action

ROLL CALL

All Board Members were present except for Judy McKie.

Election of Chair

Board member McFawn nominated David McFawn as the Chair of the Historic Preservation Board. Board Member White seconded the motion.

VOTE: The motion passed unanimously.

Chair McFawn opened the meeting at 5:07 p.m.

PUBLIC COMMUNICATIONS

Ruth Meintsma, a resident at 305 Woodside Avenue, commented on how much she had learned from working with the Staff during the HDDR and the appeal process for 335 Woodside Avenue. She requested that the HPB allow her time at a future meeting to show what she learned and what issues came up. She believed the information could be applied generally in future situations. She had asked Planner Astorga to tag team with her on everything they learned. David White would also have the opportunity make comments, since he was the project architect and was prohibited from commenting in the appeal hearing.

Planner Astorga thought Ms. Meintsma's request to share her experience could be accommodated. Director Eddington thought it was a good idea. Chair McFawn agreed. It would also help the new Board members gain an understanding of the HDDR process.

Chair McFawn thanked Ms. Meintsma for taking the initiative to prepare a presentation for the Board. Time would be scheduled during a future work session once Ms. Meintsma gathers all the information. Board Member Matsumoto-Gray wanted to know what types of things in the process would be within the HPB purview. Ms. Meintsma stated that she would be presenting research that was used to evaluate the significance of the house and how that information could be interpreted in different ways. There were also new discoveries of available materials during different time periods. A lot of details show how buildings manifested at the turn of the century and what happened to them through the years. Ms. Meintsma remarked that it was all a big puzzle and you have to put the pieces together to see the details of the picture.

Planner Astorga believed there would be a benefit to comparing a physical conditions report to an intensive level survey, which was the information Ruth was seeking during the appeal process. Board member White believed it was important to also talk about the evaluation of the process as a whole. Board member Matsumoto-Gray thought it would be useful to do that work session with an eye towards the future. Board member White agreed. Ms. Meintsma commented on the benefit of brainstorming ideas with the Staff. She believed everything learned could be applied in some way to almost any future structure.

## STAFF/BOARD MEMBERS COMMUNICATIONS AND DISCLOSURES

### Historic Preservation Award Update

Board member Matsumoto-Gray reported that she and Board Member McKie attended the Arts Advisory Board meeting and provided a general summary of what the HPB was thinking in terms of artwork for the Preservation Award. The Arts Board would suggest a list of artists; however, since it is the HPB project and award, they recommended that the HPB choose the artist. Board Member Matsumoto-Gray thought it would be beneficial to invite the Arts Board to meet with the HPB to collaborate on the selection. She personally was not qualified to select an artist and would be more comfortable involving the Arts Board.

Director Eddington recalled from last year that the HPB selected a subcommittee of three members who interviewed the artist and recommended the artwork. He reported that the Arts Advisory Board submitted a list of six recommended artists. He suggested that the HPB form another subcommittee and decide if they want to interview all six artists or narrow the list. Director Eddington stated that the HPB could invite a member from the Arts Board to sit on the subcommittee.

Director Eddington provided a brief overview of the Preservation Award for the benefit of Marian Crosby and John Kenworthy, the new Board members.

City Council Member Liza Simpson stated that the Public Art Advisory Board has a mission of choosing art that is mostly out and around in the community. She believed the HPB could choose whatever piece they wanted without overstepping their bounds in this narrow instance of reflecting the historic fabric. The HPB had the option to either involve the Arts Board or to make the decision on their own. Since it is a narrow interpretation of an award for a building or an adaptive reuse that was chosen by the HPB, and because it is not the typical public art that is displayed in the community, they should not feel obligated to follow the public art procedures.

Assistant City Attorney McLean clarified that the involvement of the Arts Advisory Board for public art is mandated when funds come from the art fund. The artwork related to the Preservation Award is coming from HPB funds and, therefore, the HPB can have independence from the Arts Board.

Board Member White believed the HBP members had the ability and diversity to choose the artist for their own project. Board Member Holmgren agreed.

The Board discussed the process for choosing an artist. Director Eddington stated that last year the HPB made a decision not to put constraints on the type of art or set specific criteria for choosing the artist. It was based on recommendations from the Art Board and interviews by the HPB subcommittee. He noted that the art piece last year was a 20 x 30 oil painting that hangs in the engineering reception office. Future pieces would be displayed in the conference rooms.

Board Member Matsumoto-Gray was the only Board member who preferred to work with the Arts Board. The remaining Board members thought the HPB was capable of making the selection. Chair McFawn noted that the Arts Board recommended six artists based on the information provided by Board Members Matsumoto-Gray and McKie. The Arts Board had narrowed the search and gave the HPB a good place to start. Board Member White noted that artists who were interviewed but not chosen last year were invited to submit their name in future years. The Planning Department still had those names on file.

Director Eddington suggested that the HPB choose one other Board member to be on the subcommittee with Board Members McKie and Matsumoto-Gray to interview the artists. The Staff would provide the names of the six artists recommended by the Arts Board, as well as the names from last year. He believed it would be a total of ten artists and the Board could decide whether or not to interview all ten. Board member White offered to sit on the subcommittee as the replacement for Alan Natt, who was on the subcommittee last year.

Director Eddington noted that the budget was approximately \$1,000. The limited budget may determine which artists are interested.

#### Update on the Washington School Inn

Director Eddington reported that the Washington School Inn was still pursuing final approvals to make the corrections to their conditional use permit. The applicant was working with the Building and Planning Departments to finalize the issues, and everything was going well. There is no deadline, but the Washington School Inn cannot obtain their final certificate of occupancy until the issues are resolved.

Board Member Kenworthy asked if the HPB had a deadline for selecting the award recipient. Director Eddington replied that there was no deadline but the award is given out annually this time of year. Board Member Kenworthy asked if there were other candidates besides the Washington School Inn. Board Member Matsumoto-Gray stated that 1101 Norfolk and 1059 Park Avenue were on the list, and she explained why each one was considered to be an appropriate candidate for the Preservation Award. Board Member Kenworthy asked if another structure would only be selected in the event that the Washington Inn School was not eligible. Director Eddington explained that the Board had not selected a final recipient, but they were favoring the Washington School Inn.

Planner Astorga stated that he had not prepared a power point presentation this evening based on a recommendation by the Planning Commission. All of the exhibits in the

power point were included in the packet and they felt it was more efficient to work from the packet since they have the ability to zoom in and out and look at different pages. If the HPB prefers the power point format they should tell the Staff.

Board Member White referred to the grant for 335 Woodside. He disclosed that he is the project architect and questioned whether or not he needed to recuse himself. Assistant City Attorney McLean stated that Mr. White could sit in the back of the room and listen to the discussion, but because he is a Board member, it would not be appropriate to appear on behalf of an applicant. Board Member White noted that the contractor, Lance Kincaid, was representing the applicant this evening.

Board Member Kenworthy disclosed that he owns at home at 214 Woodside Avenue, but he did not believe that would affect his decision this evening.

Board Member Holmgren stated that she was not on the Board when she was awarded a grant for her roof, but questioned whether she needed to recuse herself. Assistant City Attorney McLean replied that her disclosure was sufficient and she did not need to be recused. Board Member Holmgren wanted everyone to be aware that the purple house has a green roof. Assistant City Attorney McLean stated that the Staff has been changing the criteria for clarity.

#### REGULAR AGENDA – Discussion, Public Hearing and Possible Action

##### 334 Marsac Avenue - Grant (Application #PL-12-01559)

Planner Astorga reviewed the grant application at 334 Marsac Avenue. He noted that the property owner, Dottie Beck, was out of the Country until late October and she was being represented by Michael Sussman.

Planner Astorga reported that the structure at 334 Marsac was listed on the Historic Sites Inventory as a landmark structure, and is eligible for the National Register of Historic Places. The structure was built around 1898. The property owner submitted a pre-application for Historic District Design Review, as required by Code, to replace the roof shingles. He noted that the roof is in very bad condition. On advice from the staff, Ms. Beck submitted the grant application.

Planner Astorga stated that this was a matching grant. The applicant pays for the work out-of-pocket and the grant amount awarded by the HPB is refunded when the work is completed.

Planner Astorga pointed out a discrepancy found on the site. There appears to be a parking area that was not built to City standards, and the retaining wall around it is not compatible with historic materials. In doing research, the Staff was unable to find a building permit for such an improvement. After corresponding with Ms. Beck and Mr. Sussman, they found that the improvements were done prior to Ms. Beck owning the property. Therefore, the Staff was having a difficult time finding out when the improvements were built.

The Staff recommended that the Planning Commission consider awarding the grant amount indicated in the Staff report. Planner Astorga noted that the project is located in the Main Street RDA, which has no funds available. For projects within the Main Street RDA, the City uses the Capital Improvements Account, which is set aside specifically for historic incentives. The current amount in the CIP that is allocated for historic incentive grants is \$52,247.

Planner Astorga stated that the re-roof request is identified in the historic grant program as a maintenance issue and the responsibility of the property owner. However, it can be considered an eligible expense on a case by case basis. He noted that the HPB has awarded grants in the past for this same type of work.

Board Member Kenworthy asked if there was a contingency upon some kind of re-development of the parking area. Planner Astorga stated that it has been difficult trying to work with the property owner because she left the Country the day after submitting the application. The Staff plans to begin working with the Code Enforcement officers to determine whether the parking space is in its correct location and whether it encroaches on the City's right-of-way. A contingency would depend on how the property owner responds. Another solution would be to completely remove the parking space and restore it to its original native vegetation, assuming that parking could be provided elsewhere. This is a historic structure and the applicant is not required to provide off-street parking. Planner Astorga noted that there were five or six available parking spaces directly across the street on Marsac Avenue.

Board Member Crosby asked if removing the parking space would have any effect on the retaining wall. Planner Astorga replied that the retaining wall would also be removed. He remarked that the material used in the retaining wall would not be approved in the Historic District Design Review. Director Eddington stated that the retaining wall may be structurally sound as built. If that is the case, it could be faced with a similar flagstone seen on the front retaining wall, and that would be acceptable for the HDDR. In its current condition it would not comply with the Historic District Design Guidelines.

Board Member Crosby asked if the applicant could revise her application to include the retaining wall or if it would be a separate and additional application. Planner Astorga stated that a grant application is for historic structures and not new improvements. Because the parking pad was not there historically, he did not believe it could be considered for a grant application.

Board Member Matsumoto-Gray clarified that the application was for the roof. The parking space issue only came up during the site review. Planner Astorga replied that this was correct.

Board Member White asked if the house was currently occupied by the owner or used as a rental. Mr. Sussman replied that the house is Ms. Beck's home. She teaches skiing in Park City and in New Zealand, so she is out of the Country from June to October. The house is not used as a rental and remains unoccupied when she is gone.

Board Member White believed the HPB had approved grants for roofs on landmark structures in the past. Board Member Holmgren reported that her house was approved because it was a landmark structure and half the roof was off. Her grant came from the Lower Park Avenue RDA and that fund still has money available.

Chair McFawn asked if the Main Street RDA would be replenished. Director Eddington answered no. However, they could work with the budget department and ask if the City Council was interested in replenishing some of those funds.

Chair McFawn referred to items 7, 10 and 11 on the list, and asked if those items were new from what Ms. Beck currently has. Planner Astorga stated that Item 7 is the winter guard. He was unsure whether there is an existing winter guard, but the grant covers wear and tear and he believed that was an item that normally gets replaced with the roof. Board Member White explained that in this climate a winter guard is essential. He understood that the proposal was to remove everything and re-do the roof from the substructure up.

Board Member Matsumoto-Gray thought the grant was a good way to help promote preserving landmark structures.

Director Eddington asked if the Board wanted to include a condition of approval relative to resolving the parking and the retaining wall.

Board Member Kenworthy referred to the photo on page 19 of the Staff report which showed the beauty of the original retaining wall and the decking. He supported replacing the roof, but he would also like to find a way to help bring back a similar retaining wall. Since the owner does not use the parking space and there is parking across the street, Board Member Kenworthy suggested that the owner restore the area to its original look sometime in the future as a condition of the grant.

Board Member Matsumoto-Gray did not favor placing conditions on grants. The grant program is a way to financially help people maintain their historic property. If the goal is to return structures to the original as much as possible, they run the risk of scaring people away from preservation if the grant can be conditioned on fixing another element. Board Member Holmgren agreed.

MOTION: Board Member Matsumoto-Gray moved to APPROVE the grant for 334 Marsac Avenue in the amount of \$5,875, and for the funds to come from the General CIP. Board Member White seconded the motion.

VOTE: The motion passed unanimously.

61 Daly Avenue - Grant  
(Application #PL-12-01585)

Planner Astorga reviewed the grant application for 61 Daly Avenue. A design review application was submitted to repair two windows on the front facade. Planner Astorga had received additional information from the contractor, Dale Covington, indicating that based on further analysis and exploratory work on the window, the window would be

impossible to repair. He noted that work had begun on the site but nothing was done to the windows. The applicant was aware of the policy that funds could not be awarded if the work was started or completed. Correspondence from Mr. Covington indicated that the cost to replace the window was the same as the cost to repair it. The total cost to replace the window was \$2,000 and the applicant was requesting a grant in the amount of \$1,000. Planner Astorga stated that research on grants awarded since 2005 showed that the smallest grant amount was \$1500.

Mr. Covington, representing the applicant, provided information on the proposed new windows, which would look identical to the existing window. He noted that there is evidence that the existing windows were not the original windows.

Planner Astorga noted that the windows may not be the original but they were the same in style and shape. He believed this application for window replacement was a good candidate for historic preservation. He clarified that the window placement would not be shifted and the size of the opening would stay the same.

Chair McFawn asked about the exterior material. Mr. Covington stated that the new windows would be a primed wood.

Planner Astorga reported that this was a landmark structure. The Staff had a pre-application conference with Mr. Covington and the applicant, Delphine Campee. The applicant went a step further and applied for the full Historic District Design Review. The appropriate ten day public comment period was enforced and the Staff had not received any comments from the neighbors. The Historic District Design Review was approved.

Board Member Crosby asked Mr. Covington to describe the other work that was done. Mr. Covington stated that two windows were added to the back of the house that were identical to the windows being proposed for the front, minus the triple light on the top sash. The windows would be double-hung.

MOTION: Board Member Holmgren moved to APPROVE the grant for 61 Daly Avenue in the amount of \$1,000 and for the funds to be taken from the CIP Fund. Board Member White seconded the motion.

VOTE: The motion passed unanimously.

Board Member Holmgren thanks Mr. Covington for doing a great job.

335 Woodside Avenue - Grant  
(Application #PL-12-01596)

Board Member White recused himself and left the room.

Chair McFawn noted that the background section stated that the structure is located at 61 Daly Avenue. He assumed it was an error and should be corrected to 335 Woodside Avenue. Planner Astorga replied that this was correct.

Planner Astorga reported that this property came before the HPB two months ago on an appeal by Ruth Meintsma. The applicant, John Watkins, delayed applying for a building permit for the purpose of requesting the grant indicated in the application. Unlike the last application, this grant request was the largest amount requested since 2005.

Planner Astorga outlined the major work for the structure at 335 Woodside. The structure will be lifted temporarily in order to build a full foundation and basement. As it currently sits, the structure slants towards the front. Lance Kincaid, representing the applicant, stated that it was 11" katy-corner from the back to the front and that would be rectified. An addition is proposed to be added to the back and also in the basement level as a garage.

Planner Astorga explained that the applicant for this grant was for the rehabilitation and remodel of the historic site only. Money necessary to accommodate the addition was not part of the grant application because it is ineligible under the grant program. The applicant was requesting funds for siding, the windows, foundation work, the exterior paint and roof. The Staff report outlined all the items in the grant packets as well as a breakdown of individual costs. The total proposed improvements would be approximately \$132,000. The matching grant is half of the total cost at approximately \$66,000.

Planner Astorga remarked that the Staff reviewed the request, and based on their analysis, determined that the foundation is completely necessary for rehabilitation of the structure; but not the full basement. The Staff removed some items from the recommendation since the proposal was a combination foundation and an entire new floor. Planner Astorga stated that the Staff decided to keep the roof as an eligible item because the historic structure is directly affected by this portion.

The Staff recommendation reduced the cost of the matching funds to \$30,000. The HPB had the option to follow the Staff recommendation, to award the remaining amount in the CIP fund, or to award a lesser amount. Planner Astorga noted that the full amount requested could not be awarded because it exceeds the \$45,000 balance in the CIP. Planner Astorga reviewed the estimated cost breakdown of the recommended items. The roof structure was \$18,000; the wall structure was \$29,000; the siding and trim was \$8,000; and the windows and doors at \$5,000 for a total of \$60,000.

The Staff had removed the excavation, raising of the historic structure and the footings and foundation from the grant request. The items were associated with the historic structure but they were also associated with the new addition and the basement.

Lance Kincaid, representing the applicant, clarified that the excavation cost was to excavate under the historic house and not the back portion for the addition. Planner Astorga explained that even though it was under the historic house, the excavation was for the purpose of accommodating the basement as a new addition.

Board Member Kenworthy asked if the grant funds had a time limit. Patricia Abdullah explained that per the grant agreement, the applicant has 60 days to pull the building permit and 9 months to complete the construction. Once construction is completed, receipts could be submitted for reimbursement.

Board Member Holmgren confirmed that the Staff was recommending the roof restructure, walls restructure and stabilization, siding and trim, windows and doors and painting. Planner Astorga clarified that the Staff had not included painting in the \$60,000 cost. He noted that the HPB could include painting if they decide to award the grant. Mr. Kincaid pointed out that the house would be repainted because it is currently lead-based paint.

Board Member Matsumoto-Gray asked for clarification of the roof restructure. Mr. Kincaid stated that the existing roof is 2 x 4's. The entire roof would need to be restructured because the existing roof cannot support a full house. All the interior walls were removed from the structure and it is supported by temporary bracing.

Board Member Crosby requested further clarification on the 9 month completion requirement. Mr. Kincaid stated that the work outlined under the grant could be completed in 9 months. Planner Astorga stated that in order to keep the building permit active, the Building Department requires active construction every 180 days, and an inspection by the Building Department every 180 days. That is how the Building Department interprets an active building permit.

Chair McFawn asked how long the building permit can remain active. Planner Astorga replied that it depends on various factors such as the absence of work or the extent of the work done. That determination is left to the Chief Building Official. Under current policy, it is not as easy to obtain a building extension as it was in the past.

Chair McFawn stated that from the standpoint of a grant application, he favored ruling out painting because it is maintenance that every homeowner has to do. He noted that the roof restructure would be the next thing after the excavation is done and the house is put back in place. He asked Mr. Kincaid to estimate how long it would take to reach that point. Mr. Kincaid stated that with winter coming, it was unrealistic to make that prediction. However, in 9 months the doors and windows would be in place on the historic structure.

Board Member Kenworthy asked whether the house would be owner/occupied or rented. Mr. Kincaid stated that it was being built for two families and the two families intend to own it forever. It will be owner/occupied.

Planner Astorga explained that if the HPB awards the grant and the owners sold the structure, they would have to repay some of the grant amount. Patricia stated that the amount diminishes every year, but it is amortized over five years. If they sell the structure within five years the owner would have to pay back a portion of the grant they were awarded. The payback is 100% the first year, 80% the second year, etc., until the fifth year. Board Member McFawn pointed out that the applicant does not receive the funds until the work is complete. Patricia remarked that the grant is a trust deed.

Planner Astorga reported that through the approved Historic District Design Review and based on the square footage of the structure, the applicant chose to put a lien on the property for the Historic Preservation Guarantee in the amount of \$140,000, and that lien was recorded. If excavation begins and the work is not completed for any reason, the

City can use the \$140,000 from the lien to hire a contractor to complete the work on the historic structure only.

Board Member Matsumoto-Gray felt it was important for the Board to discuss the long-term sustainability of the grant program and the funds. She favors the grant program and it needs to continue. She was concerned about the dwindling funds because one large request could end the program. Board Member Matsumoto-Gray stated that in her opinion, consideration of this particular grant request was tied up with the funding issue because it is a massive amount.

Director Eddington stated that there have been discussions regarding additional funds at the most recent budget hearing. It was noted that there was still some money in the Lower Park Avenue RDA and at that time there was \$50,000 in the CIP. Director Eddington believed the City Council was committed to replenishing the funds, but it was not done during this budget cycle.

Chair McFawn shared the concerns expressed by Board Member Matsumoto-Gray. The Board asked Council Member Simpson to comment on the sustainability of the grant program and the City's intention to continue to allocate money to redevelopment grants.

Council Member Simpson replied that it was not a question she could quickly answer. There has been discussion about extending one of the RDAs. The Main Street RDA is not up for renewal yet. Coming out of the economic storm they have been in over the last few years, the City is financially healthy. There is a commitment at the City Council level and the City Management level to fund historic preservation, but how they go about doing it is still unknown. Council Member Simpson believed it would be similar to the conversation they had about funding public art. Given the draft analysis of the Historic District and its status and the general conversation four years ago at Visioning, they were talking about funding intensive level reviews for all historic buildings within the Historic District. Unfortunately, there was not enough money to make that decision. Council Member Simpson stated that there is the will to fund the grant program and the projects. The issue is finding the money and figuring out how to create a dedicated revenue stream.

Council Member Simpson encouraged the HPB to judge this grant application based on its merits. She had read the Staff report and believed the Staff had made good and valid recommendations.

Chair McFawn asked if there was a chance the grant fund would be replenished within the next 60 days. Council Member Simpson answered no.

Board Member Matsumoto-Gray believed that depleting the funds was a relevant issue. She likes to encourage historic preservation projects and help people preserve their property. However, the question is the number of people they can help.

Council Member Simpson clarified that the reason why the funds would not be replenished in the next six months was because it is tied to the budget cycle, which was just completed. She anticipated a conversation regarding an ongoing revenue stream to be part of the budget talks for next year. Council Member Simpson believed the

commitment was there, but she could not give a dollar figure or a timeline when funds could be expected.

Chair McFawn also likes the ability to encourage preservation and help people when they come before them. However, it could be 1 year at a minimum before additional money is allocated.

Mr. Kincaid pointed out that there was only one month left in this year's building season. He asked if other grant requests had been submitted. Planner Astorga replied that there were no current active grant applications on file.

Chair McFawn preferred to be conservative and err on the side of caution. Director Eddington noted that different projects have different allocations. If a project does not go through in the next few months there may be a chance to transfer some of those funds to historic preservation. There was no guarantee and it was not something they could count on.

Board Member Matsumoto-Gray wanted to know what had happened to the interior walls in the historic structure. Mr. Kincaid explained that three years ago the owner was unaware of the rules that applied to remodeling homes in town. The owner was fined and their project was halted. At that point bracing was designed and put in to hold up the structure.

Chair McFawn called for public input.

Ruth Meintsma, 305 Woodside, stated that she ran into Dina Blaes today and Ms. Blaes was coming back from looking at a property at 719 Park Avenue. The City was closely watching that project that was up for rehabilitation. Unfortunately, the owners had compromised the interior to the point where it can no longer be saved like it was when it was initially proposed. Ms. Meintsma thought the City should be aware that there may be situations where owners create a compromised condition and later come back and request a grant to correct the compromise they created. Ms. Meintsma stated that 335 Woodside was that situation; however, she was unsure whether the grant application included money to fix what the owner had done to compromise the structure.

Mr. Kincaid stated that the structure was falling down. There were holes in the walls and the walls were rotting. The house was going to collapse. Board Member Kenworthy remarked that he has been inside the house and it had significant defects five years ago. Board Member Kenworthy asked if the interior walls would be replaced. Mr. Kincaid replied that there would be outside structure walls, but the inside of the house would be open.

Board Member Holmgren agreed with Board Members McFawn and Matsumoto-Gray in terms of being conservative with the remaining funds.

Board Member Matsumoto-Gray stated that the most important eligible items were walls, windows and doors, siding and trim. Mr. Kincaid referred to earlier comments about excavating for the basement. He noted that most of the dirt needed to be dug at least six feet to get underneath and hold up the house. It goes beyond just digging for

footings and foundation. Mr. Kincaid stated that the largest improvement in the project was putting in the foundation.

Chair McFawn pointed out that it was not strictly foundation work because a basement would also be built. Planner Astorga stated that the basement was the reason why the Staff removed the foundation from the eligible items.

After further discussion, the Board agreed to approve the grant for walls, windows and doors, and siding and trim. The full cost was approximately \$42,000 and the grant amount would be half of the cost at \$21,000.

MOTION: Board Member Matsumoto-Gray moved to award a grant for the portion of the remodel at 335 Woodside Avenue that includes restructure and stabilizing the walls, the siding and trim, and the windows and doors totaling \$42,000. The eligible amount of the grant would be \$21,000 taken from the CIP fund. Board Member Holmgren seconded the motion.

VOTE: The motion passed unanimously.

Planner Astorga thanked Patricia Abdullah for her extensive work on grant applications. The Staff appreciates the support she provides to the grant program.

#### **Miscellaneous discussion items**

Board Member Holmgren asked about the for-sale sign in front of 1119 Park Avenue.

Assistant City Attorney stated that she was involved with the Building Department when the fence was put up for safety. The owners were unresponsive to the Staff initially, but they started communicating with the Staff a few weeks ago. Director Eddington noted that the owners responded once the Staff informed them that liens would be placed on the property. The Staff was doing a physical conditions report and anything they could to preserve the structure and create a safe environment by wrapping the fence around it. The Staff knew nothing about the for-sale sign. The house will be saved, preserved or reconstructed depending on the conditions report. The Staff would keep the HPB updated.

Board Member Matsumoto-Gray asked how they could make sure that the funds allocation discussion would be on the City Council's agenda. Council Member Simpson stated that she would include their discussion as part of her liaison report to the City Council the next evening.

#### **Board Member White rejoined the meeting.**

The next HPB meeting would be the third Wednesday of the month on August 15<sup>th</sup> instead of the first Wednesday.

The meeting adjourned at 6:55 p.m.

Park City Historic Preservation Board  
July 18, 2012

Approved by \_\_\_\_\_  
Dave McFawn, Chair  
Historic Preservation Board