

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

COMMISSIONERS IN ATTENDANCE:

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

EX OFFICIO:

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

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REGULAR MEETING

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

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

VOTE: The motion passed unanimously.

ROLL CALL

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

ADOPTION OF MINUTES

May 30, 2012

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

VOTE: The motion passed unanimously.

June 13, 2012

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

VOTE: The motion passed unanimously.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

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

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

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

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

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

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

VOTE: The motion passed unanimously.

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

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

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

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

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

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

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

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

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

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

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

Chair Pro Tem Thomas opened the public hearing.

There were no comments.

Chair Pro Tem Thomas closed the public hearing.

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

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

VOTE: The motion passed unanimously.

Findings of Fact – 2700 Deer Valley Drive East

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

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

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

Conclusions of Law – 2700 Deer Valley Drive

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

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

Conditions of Approval – 2700 Deer Valley Drive

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

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

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

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

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

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

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

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

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

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

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

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

Chair Pro Tem Thomas opened the public hearing.

There were no comments.

Chair Pro Tem Thomas opened the public hearing.

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

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

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

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

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

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

VOTE: The motion passed unanimously.

Findings of Fact – 455 Park Avenue

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

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

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

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

Conclusions of Law – 455 Park Avenue

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

Conditions of Approval – 455 Park Avenue

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

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

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

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

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

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

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

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

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

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

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

Chair Pro Tem Thomas opened the public hearing.

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

Chair Pro Tem Thomas closed the public hearing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

VOTE: The motion passed unanimously.

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

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

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

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

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

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

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

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

Chair Pro Tem Thomas opened the public hearing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chair Pro Tem Thomas closed the public hearing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Condition 11 - Language was stricken in its entirety.

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

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

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

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

VOTE: The Motion passed unanimously.

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

Approved by Planning Commission: _____