

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
APRIL 10, 2013

COMMISSIONERS IN ATTENDANCE:

Chair Nann Worel, Brooke Hontz, Stewart Gross, Mick Savage Adam Strachan, Jack Thomas

EX OFFICIO:

Planning Director, Thomas Eddington; Kirsten Whetstone, Planner; Matt Evans; Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

ROLL CALL

Chair Worel called the meeting to order at 5:30 p.m. and noted that all Commissioners were present except Commissioner Savage who arrived later.

ADOPTION OF MINUTES

February 20, 2013

Commissioner Wintzer referred to page 23 of the Staff report, page 25 and noted that he had recused himself prior to Mary Wintzer speaking during public input. He corrected the minutes to reflect that he had recused himself and left the room.

Also on page 25 of the minutes, last paragraph, last sentence, Commissioner Wintzer corrected the sentence, "Commissioner Wintzer suggested revising the language..." to correctly read, "**Mary Wintzer** suggested revising the language..."

Commissioner Hontz referred to page 21 of the Staff report regarding the Prospector/Bonanza Park discussion and recalled a request from the Planning Commission to further separate the two areas. She thought the Planning Commission had resolved a way to address the separation. Commissioner Wintzer recalled that the Planning Commission had agreed that the residential part of Prospector should be treated like a residential neighborhood and they gave the Staff direction to look into it. Chair Worel did not believe the Commissioners had come to a resolution.

Director Eddington reported that the Staff went back and looked at some of the indicators that were being used for that particular neighborhood, and they ended up removing some of those indicators because some were commercially based and others were residentially based. The draft General Plan included a sanitized version of those indicators, which addresses that concern. However, the Staff also made a note to address it further as they go through the draft General Plan over the next eight months. The Planning Commission would receive a matrix of a proposed schedule to review the General Plan in an effort to have it finalized by the end of the year.

MOTION: Commissioner Wintzer moved to APPROVE the minutes of February 20, 2013 as corrected. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously. Commissioner Savage was not present for the vote.

March 27, 2013 – Work Session

Commissioner Wintzer noted that on page 39 of the Staff report, the Staff had asked about the MPD for Old Town. He asked if a date had been scheduled for that discussion. Director Eddington intended to provide an update during the Staff Communication portion of this meeting.

Commissioner Hontz referred to page 29 of the Staff report, page 5 of the minutes, 5th paragraph, second to the last sentence and corrected "He noted that currently some lands...." to correct read, "**She** noted..." because she was the one who made the comment.

March 27, 2013 – Regular Meeting

Commissioner Hontz referred to page 47 of the Staff report, page 15 of the minutes, second paragraph, last line, and corrected Commission Hontz to correctly read, **Commissioner Hontz**.

MOTION: Commissioner Hontz moved to APPROVE the minutes of March 27, 2013 for the Work Session and the regular meeting as amended. Commissioner Thomas seconded the motion. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously. Commissioner Savage was not present for the vote.

Commissioner Savage arrived.

PUBLIC INPUT

Jim Tedford, a Park City resident representing a group concerned with preserving Historic Main Street. Mr. Tedford provided a copy of a letter dated January 3, 2013, which was the date he wrote the letter and submitted it to the Planning Department. He had written the letter with the understanding that the matter of MPDs in Historic Main Street would be on the agenda for the next meeting in January. Mr. Tedford noted that the matter was not scheduled on that agenda and has not appeared on any agenda for three months as a proposed change to the Land Management Code. Mr. Tedford wanted to know why the item was never placed on the agenda as it was supposed to be in January, and when it would reappear for discussion.

Director Eddington stated that the Planning Commission would be reviewing two sections of the LMC on May 8th. One was the MPD and the other one was height. Director Eddington noted that after the Planning Commission had forwarded recommended changes to the LMC in December, the Staff put the remainder of the LMC amendments on hold to focus on the General Plan. Those were scheduled to come back on May 8th.

Mr. Tedford read his letter dated January 3, 2013 into the record. In his letter he noted that it was time to decide whether they wanted to maintain Main Street's integrity as an authentic mining era business district or if they would let it deteriorate into just another Main Street USA. He noted that all advertisement enticing visitors to Park City includes the word "historic". The Main Street Business Association is named the Historic Park City Alliance. He noted that everyone in the region has a vested interest in the future of downtown Park City and they all cherish it as a part of the hometown culture. Mr. Tedford provided a brief history of Main Street commenting on its revival, as well as mistakes that were made. He also pointed out current and recent construction on Main Street that is not compatible with its historic nature. It was hard to understand how projects of this magnitude met the compatibility criteria of the LMC, the HDDR guidelines and the General Plan.

Mr. Tedford recognized that there was nothing they could do about past mistakes, but they could make sure that all future Main Street projects complement the existing historic qualities of their mountain community. The Land Management Code and the Historic District Design Guidelines determine what can and cannot be built. He suggested that it was time to strengthen these laws and not weaken them by creating exceptions and ambiguous language that allow projects that do not belong on Main Street.

Based on the Land Management Code citizens can always request that the City initiate proposed changes to the LMC. Mr. Tedford requested that the Planning Commission initiate the three proposed changes to the LMC that were attached to his letter and address the applicability of an MPD, the pre-application conference and the duties of the HPB.

Chair Worel thanked Mr. Tedford for his comments and the time he spent preparing his handout.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Eddington reiterated that the LMC amendments were scheduled for the meeting on May 8th.

He noted that another meeting with the consultants regarding Bonanza Park and Form Based Code was scheduled for May 22nd. The Staff and Planning Commission would have a work session discussion on May 8th prior to meeting with the consultants.

The Planning Commission would be receiving a calendar of scheduled meetings to discuss the draft General Plan.

Director Eddington announced that a ground breaking ceremony for the new Residential Transit building at the Iron Horse public Works Facility would be held tomorrow at 4:30 p.m. The Commissioners were invited.

Director Eddington noted that Patricia Abdullah had been out on FMLA due to family health issues. She was back and they were working on a plan to address the discussion from the last meeting regarding Minutes.

REGULAR AGENDA – Discussion, Public Hearing and Possible Action

1. **343 Park Avenue – Plat Amendment**
(Application #PL-13-01836)

Planner Whetstone reviewed the application for a plat amendment at 343 Park Avenue. The request was to combine Lot 11 and the southerly half of Lot 12, Block 3 of the Park City Survey. The lots have frontage on Park Avenue. And existing historically significant house on the property straddles the common lot line. The applicant would like to combine the lots to create a lot of record and remove the property line that the house was constructed over, resolving the existing encroachment issue.

The Staff had reviewed the application with the Development Review Committee and finds good cause for the plat amendment. It resolves the encroachment issues as well as encroachments of low walls and other minor encroachments. The plat also secures a public snow storage easement on the frontage on Park Avenue. It also addresses the issue of residential fire sprinklers. The Staff finds that the plat would not cause undue harm to adjacent property owners and that all requirements of the Land Management Code for future development could be met.

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

Commissioner Strachan asked if a structure encroaches over a property line on to someone else's property, whether the applicant could just remove it. Planner Whetstone replied that the owner removing the encroachment would need permission from the other property owner. Commissioner Strachan wanted to know what would happen if the owner either refused to allow the removal of the encroachment or refused an encroachment agreement.

Assistant City Attorney McLean explained that the idea is to clean up the property lines and the encroachments. In her experience, people either want the encroachment removed or they are willing to do an encroachment agreement.

Planner Whetstone identified encroachment areas for 343 Park Avenue. She noted that there was a minor retaining wall encroachment on to City property in the front, which would be addressed through an encroachment agreement with the City. A retaining wall in the back is on and off the property.

Commissioner Savage assumed that the formal encroachment agreement states that the owner being encroached upon has the right, but not the obligation to allow an encroachment.

Assistant City Attorney McLean stated that the City does not provide encroachment agreement for the parties. The agreements are drawn up between the two parties and each agreement can be different. The City only makes sure the encroachment issue is addressed. In response to Commissioner Strachan's questions, Ms. McLean stated that in the situation of a refusal, the matter would be handled on a case by case basis.

Marshal King, with Alliance Engineering and representing the applicant, asked how the City could require an agreement between two private parties; particularly if the neighbor would not cooperate, regardless of whether it is the person encroaching or the one encroached upon. Planner Whetstone believed it would become a civil matter. However, if the structure is historic, she doubted that a judge would order it to be removed.

Commissioner Savage clarified that the City does not enforce the encroachment agreement. Enforcement of the agreement is between the parties who are the subject of the agreement. However, the existence of the encroachment agreement could be a requirement by the City to allow a plat amendment. He was told that this was correct.

Chair Worel opened the public hearing.

There were not comments.

Chair Worel closed the public hearing.

Commissioner Hontz referred to page 58 of the Staff report, Finding of Fact 12, and page 59, Condition of Approval 4, and thought the language should match. She revised Finding 12 to read "A Steep Slope Conditional Use Permit is required for any new construction over 1,000 sf of floor area and for any driveway/access **and/or** improvement if the area of construction/improvement is a 30% or greater slope for a minimum horizontal distance of 15 feet." She read from Condition 4, "Approval of a Steep Slope Conditional Use Permit application is a condition precedent to issuance of a building permit if the proposed development is located on areas of 30% or greater slope and over 1000 square feet per the LMC." Commissioner Hontz thought the requirements for what triggers a steep slope approval should be the same in both the findings and the conditions and it should be consistent.

Commissioner Hontz referred to page 59, Condition of Approval 5, regarding Modified 13-D sprinklers. She recalled that the Planning Commission had updated the language in previous meetings for the condition in general and this language was inconsistent. She noted that the wording was not "will" and "as required." Commissioner Hontz requested that the previous update language be used as standard language and that Condition #5 be revised to follow that language. They were finding that sprinklers were not being required for historic structures and the language "shall be required" should be changed to, "may be required."

Planner Whetstone stated that changing "shall" to "may" was consistent with the last application that was revised. Commissioner Hontz did not believe they needed to use the word required twice. She modified the first sentence to read, "Modified 13-D sprinklers may be required for new construction by the Chief Building Official."

Commissioner Savage questioned whether the sprinklers should be a condition of approval. Assistant City Attorney McLean noted that the Building Department has always wanted it identified on the plat as a condition.

Commissioner Hontz corrected Condition 7 to read, "Encroachments across property lines must be addressed prior to plat recordation and shall either **be** removed or encroachment easements shall be provided."

To address Commissioner Hontz concerns with Finding 12 and Condition 4, Commissioner Strachan suggested that they strike Condition 4 and add the language from Finding 12. He did not believe the language was a finding and recommended that it be stricken from the Findings of Fact. Commissioner Hontz was comfortable with that change.

MOTION: Commissioner Savage moved to forward a POSITIVE recommendation to the City Council for the 343 Park Avenue Plat Amendment, based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance and as amended. Commissioner Wintzer seconded the motion.

Findings of Fact – 343 Park Avenue

1. The property is located at 343 Park Avenue and consists of one and one half "Old Town" lots, namely Lot 11 and the southerly half of Lot 12, Block 3, of the amended Park City Survey.
2. The property is located within the Historic Residential (HR-1) zoning district.
3. There is an existing historic house straddling the common lot line. The house is listed as a "Significant" Historic Structure on the Park City Historic Sites Inventory. There are also various rock retaining walls in the front, side, and rear yards that encroach upon the adjacent property or City ROW.
4. Constructed across the underlying Park City Survey lot lines, the existing historic house is a complying structure in terms of setbacks, footprint, and height.
5. The property has frontage on Park Avenue and the combined lot contains 2,812 square feet of lot area. The minimum lot area for a single family lot in the HR-1 zone is 1,875 square feet. The minimum lot area for a duplex in the HR-1 zone is 3,750 sf.
6. Single family homes are an allowed use in the HR-1 zone.
7. On February 11, 2013, the owner submitted an application for a plat amendment to combine the lot and one half into one lot of record for the existing single family house.
8. The application was deemed complete on February 15, 2013.
9. The HR-1 zone requires a minimum lot area of 1,875 square feet.
10. The property has frontage on and access from Park Avenue.

11. The lot is subject to the Park City Design Guidelines for Historic Districts and Historic Sites for any new construction on the structure.
12. The proposed plat amendment does not create any new non-complying or Non-conforming situations.
13. There are existing encroachments onto the proposed lot that will need to be resolved prior to recordation of the plat, these encroachments include rock walls in the front, side, and rear property.
14. The maximum building footprint allowed for Lot One is 1,200.68 square feet per the HR-1 LMC requirements and based on the lot size. The existing house has a building footprint of 1128.9 square feet.
15. The plat amendment secures public snow storage easements across the frontage of the lot.
16. There is good cause to combine Lot 11 with the southerly half of Lot 12 in order to create a lot of record for an existing historically significant structure, to resolve encroachment issues that resulted from construction of the house across a property line as well as minor encroachments due to existing retaining walls. The plat amendment also secures public snow storage easements across the frontage of the proposed lot.

Conclusions of Law – 343 Park Avenue

1. There is good cause for this plat amendment.
2. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. Approval of the plat amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 343 Park Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.

3. Approval of an HDDR application is a condition precedent to issuance of a building permit for construction on the lot.
4. A Steep Slope Conditional Use Permit is required for any new construction over 1,000 sf of floor area and for any driveway/access improvement if the area of construction/improvement is a 30% or greater slope for a minimum horizontal distance of 15 feet.
5. Modified 13-D sprinklers shall be required for new construction by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final mylar prior to recordation.
6. A 10 foot wide public snow storage easement is required along the frontage of the lot with Park Avenue and shall be shown on the plat.
7. Encroachments across property lines must be addressed prior to plat recordation and shall either removed or encroachment easements shall be provided.

2. **206 Grant Avenue – Plat Amendment**
(Application PL-13-01819)

Planner Matt Evans reviewed the application for a plat amendment to combine two partial lots of the Millsite Subdivision, Block 72, into one parcel to create one new buildable lot. The property is located in the HR-2 zone, which is a residential district. The applicant was contemplating future development of the property. The applicant was considering one of two possible uses. One was a potential garage for the property which was actually 222 Sandridge Avenue and not 156 as incorrectly stated in the Staff report. A second possibility was a potential small home on the site.

Planner Evans stated that the property has unique circumstances, and the shape of the property would dictate some of the lot requirements. The size of the lot is 2,257 square feet. The minimum required is 1875 square feet. The maximum allowed footprint of 994 square feet was a potential based on the lot size. The lot width was 70 feet, which dictates the setback requirements for the side yard. The required setbacks would be 20 feet combined; a ten foot minimum front and rear, which makes the setback totals 14 feet with a five foot minimum setback. Maximum height is 27 feet.

Planner Evans presented a slide showing the configuration and the two lots being combined. He had also shown the setbacks and the conceivable building pad, which was estimates to be approximately 600 square feet. Planner Evans presented what he believed to be a conceivable building form based on the setback requirements. He noted that the situation is complicated because the existing stairway easement is approximately 7 feet and the setback requirement is 9 feet. Therefore, even if the new structure could be built within that area it would not encroach into the existing stairwell easement because the setback requirement is larger than the actual easement area.

Planner Evans reviewed future required processes as outlined in the Staff report. At a minimum an HDDR would be required in the future if the applicant chose to move forward with development. If the structure is over a 1,000 square feet, the property would more than likely exceed the 30% slope and a Steep Slope CUP would also be required.

The Staff found good cause for this plat amendment. Planner Evans noted that without the plat amendment the two lots could not be developed independently. He commented on easement issues related to the property as outlined in the Staff report.

Jonathan DeGray, representing the applicant, was available to answer questions.

Commissioner Hontz asked about the parking space easement. Mr. DeGray stated that the previous owner who owned 206 and 210 Grant, as a provision of the sell, created a parking pad for 210. Therefore, 210 Grant Avenue has a parking space off of Swede Alley and that was the easement. Mr. DeGray noted that the parking space is 9' x 18' and it needed to encroach on to the lot at 206 in order to be a parking space for the 210 property. Director Eddington was unsure of the negotiation details, but the owner worked with the City Engineer to add a parking space. He noted that the parking space was historically existing and it was improved for 210 Grant.

Commissioner Wintzer understood that approval of the plat amendment would not affect the easement.

Chair Worel opened the public hearing.

There were not comments.

Chair Worel closed the public hearing.

Commissioner Hontz referred to page 74, and noted that Finding of Fact #4 was incorrect. She assumed it was a cut and paste error. Planner Evans verified that she was correct. Finding 4 should be deleted and the findings renumbered.

Commissioner Hontz suggested that the language in Finding of Fact #9 should be revised to match the standard language as stated in the previous matter. Commissioner Hontz suggested that they delete the first sentence in Finding of Fact #12 and begin the Finding with the second sentence.

Commissioner Hontz referred to page 75, and thought Condition of Approval #3 was in incorrect as written. She split it into two conditions of approval and revised the language to read:

Condition #3 - Approval of an HDDR application is a condition precedent to issuance of a Building Permit for construction on the lot.

Condition #4 – Approval of a Steep Slope Conditional Use Permit application is a condition precedent to issuance of a building permit if the proposed development is located on areas of 30% or greater slope and over 1,000 square feet per the LMC.

Commissioner Hontz noted that the written Condition #4 would become Condition #5. She revised that language to read, "Modified 13-D sprinklers may be required by the Building Official for any construction." She commented on the important of making sure the Findings and Conditions are concise and legally defensible.

Regarding the language the new Condition #5, Director Eddington preferred to expand the modified condition to match the language in the condition of approval for 343 Park Avenue. "Modified 13-D sprinklers shall be required for new construction by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final mylar prior to recordation." Commissioner Hontz concurred.

Commissioner Savage stated that he was not as detail-oriented as some of the other Commissioners, but he was curious about language in Finding of Fact #12 that talks about the maximum allowed footprint of 994 square feet, but then says the footprint will not exceed 600 feet. He understood the intent but it was confusing. Commissioner Hontz clarified that it was her reason for suggesting that the first sentence be deleted and that the Finding begins with "Potential development on the property is limited to...."

Commissioner Strachan pointed out that Finding of Fact #14 was actually a Conclusion of Law. He recommended that it be deleted from the Findings and insert the language as Conclusion of Law #1.

MOTION: Commissioner Savage moved to CONTINUE the discussion of the 206 Grant Avenue plat amendment to April 24, 2013 Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

3. 30 Sampson Avenue – Steep Slope Conditional Use Permit.
(Application PL-12-01487)

Commissioner Wintzer disclosed that he has a business association with Wade Budge, the attorney for the applicant. Commissioner Thomas disclosed that he also knew Wade Budge.

Planner Evans noted that the Planning Commission reviewed this item in December as a work session. The Work Session minutes were attached as Exhibit F. The minutes from the August 2012 meeting session was identified as Exhibit E in the Staff report; however, that Exhibit was inadvertently left out of the Staff report.

Planner Evans had emailed a corrected analysis to the Commissioners showing the correct numbers for the home at 30 Sampson Avenue. He noted that a lot of numbers were involved in the Staff report and any questions regarding the numbers would be referred to the applicant's representatives.

Commissioner Savage assumed that Planner Evans had reviewed and corroborated all the numbers, and any comments or explanations by the applicant or his representatives would also be on behalf of Planner Evans. Planner Evans replied that the Staff and the applicant had reviewed the

numbers and agreed upon them. Mr. DeGray concurred that the only discrepancy were the numbers on the matrix for 30 Sampson and that had been corrected.

Planner Evans remarked that there are nine criteria to be considered when reviewing the Steep Slope CUP. He noted that the project would go through a formal HDDR process, but that had not yet occurred. Therefore, any design features have not been approved and were still subject to HDDR review. He recommended that the Planning Commission look at the house and associated structures from the standpoint of form rather than the actual details with respect to materials and design.

Commissioner Thomas pointed out that mass, form and scale were also design elements, and as an architect, they are critical design elements. Planner Evans agreed. He was only pointing out that the Staff and the Design Review Team would be looking at those issues independent of the steep slope conditional use permit.

Planner Evans reviewed the nine criteria for review and how it was specifically applied to 30 Sampson Avenue. The Staff no unmitigated impacts on Criteria 1-7, and requested discussion on Criteria 8 and 9.

Criteria 1 – Location of Development. Planner Evans indicated an existing platted subdivision lot that was created in 1995 and specific conditions and criteria was recorded on the property, as documented in the Staff report. The structure was limited to 3,000 square feet. Discussions during the 1995 approval allowed a 400 square feet addition for a garage, for a total maximum of 3400 square feet. Planner Evans remarked that the Staff report also notes that in 1998 a decision was made by the Community Development Director that the 3400 square feet did not apply to a basement that is completely subterranean underground that meets that criteria. For that reason, Planning Commission was looking at a building that appeared to be much larger than what is recorded on the plat. The letter from the former Community Development Director was attached to the Staff report as Exhibit D.

Commissioner Thomas asked if the previous decisions over-ruled the 2009 Code that has different stipulations for those areas. Planner Evans stated that the applicant is vested for 3,000 square feet plus 400 square feet for the garage, not counting the basement. Commissioner Thomas thought the applicant was also held accountable to the interpretation of the 2009 revised Steep Slope CUP process. Planner Evans answered yes. Commissioner Thomas questioned the process if the current Code differs from the letter issued from the Community Development Director in 1998. Planner Evans replied that how it differs would depend on the Planning Commission's interpretation.

Commissioner Savage asked if the letter was considered to be a modification or an interpretation. Planner Evans replied that it was an interpretation. Commissioner Strachan understood that it was an interpretation of the plat amendment, not the Code. Planner Evans agreed that it was not a Code interpretation.

Criteria 2 – Visual Analysis. Planner Evans pointed out that the visual analysis had two missing components. One was 16 Sampson, which is an approved HDDR and Steep Slope CUP, and has a

similar sized home being built. The second was the potential development above this lot on Lot 1 of Treasure Hill, which also would add to the visual analysis but is currently an unknown.

Commissioner Wintzer clarified that the Treasure Hill property was not in this zone. Planner Evans replied that this was correct. It was directly above 30 Sampson in the HR-1 zone.

Criteria 3 – Access. Planner Evans noted that this property only has access on Sampson Avenue. No other access is contemplated.

Criteria 4 - There is no terracing; however, there is initial grading and stabilization. Some retention will be required.

Criteria 5 – Building location. Planner Evans reiterated that they were dealing with a previously approved building lot, Lot 3 of the Millsite Subdivision amended plat.

Criteria 6 – Building form and scale. The Planning Commission would be looking at the form, mass and scale of the home.

Criteria 7 – Setbacks. As indicated in the Staff report, because of the shape of the lot, the Code requires that the Planning Director do a setback analysis, which was previously done and included in the Staff report. Planner Evans stated that a lot with this configuration might have a 10' front yard and 10' rear yard and 5' side yard setbacks based on the lot width. This is an odd shaped lot with many different sides. Therefore, the Planning Director made a determination as to setbacks; 15' front, 15' rear and setbacks that vary on the side from 5' to 8' feet and 10' in some spots.

Criteria 8 – Dwelling volume. The Staff requested discussion from the Planning Commission on the building volume. The applicant had redesigned the home from its original design, which contemplated a two car garage, to a one-car garage in an effort to reduce the appearance of the building volume looking at it from Sampson Avenue.

The Staff had proposed questions for discussion.

Criteria 9 – Building Height. Planner Evans remarked that the maximum building height was 27'. The proposed dwelling does not exceed 27'; however, because of the steep slope situation, the Staff requested discussion by the Planning Commission.

The Staff had drafted findings of fact, conclusions of law and conditions of approval.

Wade Budge, counsel representing the applicant, introduced the property owners, Michael and Lori Jorgensen. Mr. Budge provided a brief background of the history of the property. He felt it was important to keep in mind that this property was platted from approximately 13 lots, allowing the potential to have more density in this area. However, in 1995 the property was part of a plat amendment to have three lots placed in this area and the plat was recorded. Mr. Budge stated that 30 Sampson was the last of the three lots to be developed.

Mr. Budge pointed out that the minutes from the 1994 Planning Commission meeting was attached to the Staff report. At that time it was determined that a home was appropriate for this site and plat notes were placed on the plat reflecting that. Mr. Budge felt it was important to note that the garage issues were discussed; as well as the idea of having a home on the property. He remarked that the slope was also discussed at that time. Those issues have already been considered, and he was pleased that they would be considered again because they were interested in hearing input from the Planning Commission before proceeding.

Mr. Budge thought the Staff report was very thorough and well-done, the applicants agreed with the analysis. He wanted to touch on a few points and asked Jonathan DeGray, the project architect, to talk about massing and some of the design changes. He believed the changes were important as the Planning Commission considers potential impacts.

Mr. DeGray reviewed changes to the garage based on the discussion with the Planning Commission during the site visit. Based on their concerns, the driveway was dropped approximately 1 foot and the slope was reduced. Mr. DeGray reviewed the site plan and noted that it was virtually flat on the south side of the driveway going to about a 10% grade on the right-hand side of the driveway facing it from the street. Mr. DeGray stated that since the initial application, the garage was changed from a two-car to a single-car garage. By doing so reduced the width of the frontage.

Commissioner Savage asked if it was a single car garage or a tandem two-car garage.

Mr. DeGray replied that it was a long single-car garage. It does not meet the requirements of tandem. However, two small cars could fit in it. Mr. DeGray stated that the second off-street parking space would be maintained on grade with the spur that goes off to the north.

Mr. DeGray stated that the width of the building was reduced to soften the appearance on the street.

In terms of relationships to other buildings on the street it is probably one of the smallest structures on Sampson. The shape of the lot dictates that the bulk of the building be set back. As noted in the Staff report, the distance of the property line to the front of the building of the residence is 77 feet, which is considerably further back on the lot.

Mr. DeGray referred to Criteria 8 and 9 in the Steep Slope CUP. Regarding Criteria 8, Mr. DeGray stated that building volume is a product of the lot shape. The Planning Commission has already discussed the unusual hourglass shape and topography of the lot. It is dictated that the house be broken into two pods; the driveway/garage portion closest to the street, and then 70+ feet back up the hill is the residence. The residence above grade is a two-story structure on the front and single story at the rear. Above grade the two stories equal 2400 square feet of building area. Mr. DeGray believed the home was a modest home in terms of building size visible from the street. He noted that 77 feet back would allow for significant vegetation between the garage and the main house. Surrounding the main house is predominantly a scrub oak forest. Mr. DeGray stated breaking it into two pods reduced the dwelling volume considerably, compared to other structures on the street. He used 40, 60 and 99 Sampson as examples of larger structures along the road.

Mr. DeGray stated that the proposed garage is a 900 square foot structure. He noted that 50% of the garage structure is buried into the hillside; however, the entire square footage of the garage is counted in the maximum square footage. Mr. DeGray pointed out that the height of the structure is limited to 25 feet. One area of the home is 27 feet.

Mr. DeGray referred to the visual analysis drawings and noted that the house was only found to be visible from the trolley turnaround or from the top of Hillside at the intersection of Marsac. Mr. DeGray stated that another consideration was how the structure fits into the hillside and how it looks with the other residences. He would argue that it fits within the context of the entire hillside.

Mr. Budge thought the minutes from the 1995 process were informative. A lot of analysis was done by the Planning Commission at that time, and while it should not substitute for the judgment of the current Planning Commission, it was helpful and should contribute to their analysis. Mr. Budge believed the 1995 analysis shows that there was a lot of discussion about the kind of square footage that would be appropriate for this particular terrain. In the case of the adjacent lot at 40 Sampson, the determination was made that a larger structure would be appropriate. At some point in time it was possible that up to 3500 square feet above ground could be located next door and due south of this structure. Mr. Budge felt that was important to keep in mind as they analyzed the issues.

Mr. Budge remarked that a Code exception resulted from the 1995 process and is found in the Park City Code. He noted that it has been referred to as the Schneckloth exception. The exception allows someone in this particular subdivision to avoid this CUP process. Mr. Budge stated that the applicants were here this evening because they submitted an application, but he felt it was important to read what the City Council determined and said about this particular subdivision relative to that process. Mr. Budge read, "In conjunction with the subdivision or plat amendment, several property owners have undergone a review process comparable to that listed in the conditional use section B above." That section is the steep slope process they were talking about today. Mr. Budge stated that the City did not seek to subject those owners to additional Planning Commission review. He noted that further language allows the applicant to bypass the process and go directly to the Planning Director.

Mr. Budge emphasized that this property has already gone through great review. As an applicant, they have been very careful to make sure their proposal is in strict conformity with what was approved. Mr. Budge summarized that a plat was approved and recorded in 1995 and a statement was made that the maximum size of 3,000 square feet was appropriate for the site. In those same discussions a clarification was made relative to a 400 square foot garage not being included in the 3,000 maximum. In addition, as reflected in Exhibit D in the Staff report, in 1998 a determination was made regarding the basement issue. Mr. Budge reported that Mr. Jorgensen wanted the issue clarified before purchasing the property. Therefore, the seller, Ms. Schneckloth, sought that determination from the Community Development Director and the determination was recorded against this property. On that understanding, Mr. Jorgensen purchased the property that same year.

Mr. Budge stated in talking about detrimental impacts, they need to balance the interests and the expectations of the property owner with the impacts that would be created by his proposed structure.

Mr. DeGray commented on Criteria 9 – Building height. He reiterated that 25' was the general height of the main home. One portion was 27'. The structure is two stories in the front and one story in the back sitting parallel to the contours. He indicated a vertical change in the building site of 30 feet between the front garage pad and the home. Combined with the 70 feet of horizontal

change there is a great deal of variation in terms of building volume and the perceived building height as the building is viewed from the street and from a distance.

Mr. DeGray did not believe the renderings clearly showed the actual separation between the buildings. He reviewed the south elevation to show the distance between the garage and the main building. He noted that the portion in between the garage and the elevator is also a planting area. The garage would be a lower structure just over 20 feet at the ridge. He pointed out the 27' height line directly above the main house. It would be a modest structure of 2400 square feet sitting on top of the hill.

Mr. DeGray commented on the purpose statements in the HRL zone. He read from Item A, "Reduce the density that is accessible only by substandard streets so that these streets are not impacted beyond a reasonable capacity." Mr. DeGray reiterated that the plat reduced the subdivision from 13 platted lots to three platted lots. The property is in the HR-L zone. Historically HR-L zoning is larger lots at a two lot minimum of 3750 square feet and larger homes. The HR-L densities are different from the densities in the HR-1 zone.

Mr. DeGray read from purpose statement B, "Provide an area of lower density residential use within the old portion of Park City. He again noted that the plat reduced the density and therefore meets the purpose. Item C, "Preserve the character of historic residential development in Park City". Mr. DeGray stated that the proposed home would meet the design guidelines, it meets the steep slope criteria, and it is sensitive to the character of historic residences in the area. Item D, "Encourage preservation of Historic Structures." Mr. DeGray pointed out that there are no historic structures on the site. The closest historic structure is the adjacent property which is also within the same subdivision. As previously stated, that lot has an above grade building size of 3500 square feet plus basement plus a 400 square foot garage. It is the largest lot on Sampson Avenue at 11,000 square feet. Item E, "Encourage construction with historically compatible structures that contribute to the character and scale of the historic district and maintain existing residential neighborhoods. Mr. DeGray stated that compatibility within the HRL Zone is only defined in the LMC as height, footprint, setbacks, and meets the criteria of the steep slope CUP. Mr. DeGray believed the design as proposed met all the requirements.

Mr. DeGray noted that the Staff had provided additional comparisons of building size in the Matrix contained in the Staff report. If one of the criteria for compatibility is viewed as building size, as proposed by Staff, he thought it was fair to review compatibility with historic structures by reviewing what the historic structures in the area actually are, as well as how they have been renovated and could potentially be renovated. Mr. DeGray stated that 16 Sampson Avenue, which recently received an approval, is a historic structure. The project is a reconstruction resulting in 4,141 square feet gross. The lot size is equivalent to 3.2 lots. Mr. DeGray remarked that 40 Sampson Avenue is the Schneckloth property. The lot is the equivalent of six old town lots and the structure could be as large as 3500 square feet. Mr. DeGray noted that 41 Sampson across the street is currently a condemned structure due to the wall that supports Sampson Avenue. However, that property has an approval for a new structure at 4,154 square feet gross. He noted that 60 Sampson Avenue, which is a historic renovation, is 4,246 square feet on the equivalent of 3.5 lots. In comparison, Mr. DeGray pointed out that 30 Sampson Avenue is the equivalent of 3.7 lots at 7,000 square feet. It is the second largest lot on the street. The applicant was proposing a gross

square footage of 4,585 square feet. Mr. DeGray remarked that this proposal was very compatible based on the historic homes in the area and how they have been renovated. The same could be said for compatibility with new construction at 50 Sampson, as well as the homes at 201 Norfolk, 99 Sampson, and other properties in the neighborhood.

Mr. DeGray pointed out a smaller structure at 121 Sampson at 854 square feet. It is not a historic structure and could be torn down. The structure sits on 3.5 lots.

Mr. DeGray stated that building size is one level of comparison for determining compatibility, and he believed another level needs to be mass and scale. They have talked about the visual analysis and how the mass and scale of the building fits within the context of the hillside of the Sampson Avenue/Norfolk/King Road/Woodside area. He would argue that the building fits within that character.

Mr. DeGray remarked that a third level to judge compatibility would be the fact that the home needs to work within the Historic District Design guidelines. He emphasized that the home would meet those guidelines, and therefore would be compatible in its design and appearance. Mr. DeGray stated that the last item for judging compatibility was the 1995 plat, which stipulates compatibility based on building size. They also meet that criteria.

Mr. Budge understood that the elevator was discussed in prior meetings. He clarified that the purpose of the elevator was more than just convenience. Michael Jorgensen is a doctor. He does not see patients at home, but some of his friends, particularly one in a wheelchair, need accessibility. The elevator allows the owners to make use of their property and make sure that all of their guests could access their home. Mr. Budge believed the proposed design accomplishes that, and is done in a way that is consistent with the Code.

Mr. Budge stated that they have tried to anticipate all detrimental impacts and mitigate them as best as possible. They believed all the impacts had been mitigated by the design, but they were interested in hearing from the Planning Commission.

Chair Worel opened the public hearing.

John Vrabel stated that he lives across from 30 Sampson Avenue. Mr. Vrabel commented on structures in the area that were smaller homes, including 41 Sampson at 1100 square feet. His house at 33 Upper Norfolk is only 800 square feet. Mr. Vrabel noted that the proposal for 30 Sampson was not totally compatible with all the surrounding structures. In his opinion, two parking spaces was not sufficient for the size of the home proposed.

Susan Fredston-Herman stated that she was an adjacent property owner and was concerned with the status of Sampson Avenue. A building permit has been issued on her property and they are required to begin construction on May 15th. They have been told that the road cannot handle construction traffic, which puts them in a very difficult situation. They have a contractor waiting to start, but no one know if they can move forward. Ms. Fredston-Herman remarked that the integrity of the road is an issue. The road is clearly failing, which is why 41 Sampson has been condemned. She was concerned about the construction schedule of her project and additional projects. With no

disrespect to the Jorgensen project or anything else, Ms. Fredston-Herman requested that this item be continued until the City makes a determination on when the road would be repaired, how it would be repaired and how it affects the property owners on Sampson Avenue and adjacent properties. Ms. Fredston-Herman believed the issue of road safety was important and her concern was the sequence of events on Sampson. Until there is clarity on that situation and whether the road can handle construction equipment this item should be continued.

Chair Worel closed the public hearing.

Commissioner Savage asked if he was correct in assuming that the Planning Commission was looking at a recommendation on a conditional use permit related to a steep slope, and that the issuance of a building permit associated with construction of that project would be subject to separate reviews as mentioned by Ms. Fredston-Herman.

Director Eddington stated that if construction could not be started within a certain period following the CUP approval, the owner loses the CUP. He understood that this was a real concern with regard to Sampson Avenue. Director Eddington noted that the City Engineer was currently working with the Chief Building Official to determine what needs to be done on Sampson Avenue, and there are concerns with some of the safety features of the road on the downhill side regarding a retaining wall that is adjacent to 41 Sampson Avenue. Until that issue is addressed, Director Eddington assumed there were concerns about taking up heavy equipment and it was a valid concern.

Responding to Commissioner Savage's question, Assistant City Attorney McLean stated that the timing for this project to move forward would not be right away because they still needed to go through the HDDR process and do other things before pulling a building permit. Ms. McLean did not recommend delaying a decision on this application based on resolution of the road issue.

Commissioner Savage stated that having reviewed this proposal a few times and visiting the site, he understood some of the challenges related to this particular lot, as well as the challenges of the neighborhood and compatibility. He believed the applicant had done a good job making some of the recommended changes. He thought the change to the garage was positive and he was comfortable with the height. Commissioner Savage believed that certain things were aesthetically possible and would enhance the compatibility and nature of the structure as it relates to cross valley views and other neighborhood compatibility questions, without being detrimental to their own objectives. Commissioner Savage stated that unless he hears something in the discussion this evening that would sway his opinion, he would support the project.

Commissioner Gross concurred with Commission Savage.

Commissioner Hontz referred to the continual mention about potential future development that has not yet been applied for or approved. However, in the same Staff report, the Staff could not speak to the scenario of future development because there is no way to anticipate what future LMC Codes would allow an applicant to do with an application. She pointed out that it could not be both ways and everyone understands that there is no way to anticipate what might occur on those properties. Commissioner Hontz took issue with the reference in terms of it possibly being part of the visual

scenario and part of massing of a certain size. She emphasized that it should not be a factor in their decision-making.

Commissioner Hontz referred to page 84 of the Staff report and the purposes of the HRL District. She believed all of her comments would build up to support why this application did not meet the purposes of the HRL District. Specifically, Letter C – Preserve the character of the historic residential character of the historical residential development in Park City; Letter E – Encourage construction of historically compatible structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods; Letter F – Establish development and review criteria for new development for new development on steep slopes which mitigate impacts to mass and scale and the environment. Commissioner Hontz believed the application in its current format did not meet statements C, E and F. She was prepared to provide examples to support her opinion.

Commissioner Hontz did not believe that any of the properties in the Matrix on page 89 of the Staff report were reviewed under the current LMC. Therefore, it was an inaccurate analysis. Commissioner Hontz was unsure why time was spent doing an analysis on homes that may or may not be built today because of Code changes. She also noted that the Matrix only included historic homes that had major renovations. There are numerous homes in close proximity on Upper Norfolk that are much smaller in size and footprint.

Commissioner Hontz read the Land Management Code language for the HRL District on page 90 of the Staff report. Section 15-2.1-6 – Development on Steep Slopes are regulated. “Development on Steep Slopes must be environmentally sensitive to hillside areas carefully planned to mitigate adverse effects on neighboring land and improvements and consistent with the Historic District Guidelines. Development, subsection (1), “Location of development needs to be designed to reduce visual and environmental impacts of its structure.” Commissioner Hontz stated that due to the shape of the lot, addressed in Criteria 1, it would be challenging to limit the visual impacts of the lot unless they only developed on one portion of it. However, moving up the hill and building from Sampson Avenue all the up to the top rear line does not reduce the visual impact. It also does not reduce or mitigate environmental impacts because they would be impacting the entire lot. For those reasons, Commissioner Hontz did not think it was a reduction to visual or environmental impacts.

Commissioner Savage asked Commissioner Hontz to clarify her statement regarding density reduction. Commissioner Hontz noted that Criteria 1 states that development is located and designed to reduce the visual and environmental impacts of the structure. They have to look at the lot to see if it is a reduction over what it could be. Commissioner Savage clarified that the reduction was over what it could be, not over what it is. He was trying to understand Commissioner Hontz’s perspective for her argument as to why it was not a reduction and from what. Commissioner Hontz replied that she would argue that it could be a more appropriate design.

Commissioner Hontz referred to Criteria 2 – Visual analysis from the across canyon view. She believed this was a great demonstration of how it is not screened and that the vegetation is not protected. It also shows how the structures take up the entire lot. The development grows as it continues up the hill.

Commissioner Hontz referred to Criteria 4 – Terracing. She noted that the Staff reports states that the project may include terraced retaining structures if necessary to regain natural grade. It further states that no terracing is proposed. Commissioner Hontz found that to be confusing because she has seen multiple places where retaining is defined as terracing because multiple levels of retaining occur on the site. She stated that at a minimum they have to acknowledge that terracing occurs on the site. She was not arguing that it should not happen and believed it needed to be done; however, it was an inaccurate statement to support something that was untrue because terracing will occur.

Commissioner Hontz referred to Criteria 5 – Building location. She read, “The site design and building footprint must coordinate with adjacent properties to maximize opportunities for open areas and preservation of natural vegetation to minimize driveway and parking access and provide variation of the front yard.” Commissioner Hontz remarked that the first part of that statement, “maximize opportunities for open areas and preservation of natural vegetation” are not supported by this current version of the application. She agreed that from the previous version, the driveway and parking area was minimized. However, based on comments during the public hearing, with a house of this size and a road you cannot park on, perhaps the parking area should not be minimized. Commissioner Hontz pointed out that this was a situation that may need three parking spaces but there was no room for it. The question was whether they wanted a less desirable design with a larger garage facing the street or impacting the neighborhood by parking on the street. She was unsure which would be worse.

Criteria 6 – Building form and Scale. “Low profile buildings that orient to the existing contours are strongly encouraged.” Commissioner Hontz was unable to say that they were looking at that in this design. In her opinion they are not low profile buildings and that they move up with the contours.

Criteria 7 – Setbacks. Commissioner Hontz recognized that this was a very challenging site based on the unusual configuration. However, challenging is not an excuse for a bigger house size that does not meet compatibility with surrounding historic structures. She thought they needed to look closer to make sure the setbacks are big enough.

Criteria 8 – Building Volume. “The Planning Director and/or Planning Commission may further limit the volume of a proposed structure to minimize its visual mass and/or to mitigate difference in the scale between and proposed structure and existing structures. Commissioner Hontz noted that the basement was adding to the volume. She thought the previous Planning Commission was very concerned about how this would look and feel on the site. She believed they would be distressed to see this application move forward in its current format and given a steep slope approval because the volume is very large above ground.

Criteria 9 – Building Height (Steep Slope). Commissioner Hontz stated that the Planning Commission could require a reduction in building height for all portions of the structure if they felt it would help mitigate some of the concerns related to size and scale. Even though the proposed height meets the zone height, it pushes the structure to look larger as it goes up the hill.

Commissioner Hontz noted that Finding of Fact #17 on page 96 supports that there is obviously terracing and retaining around the entire structure. She remarked that Finding of Fact #28 on page 97 needed to be removed because it was not pertinent to this application. Commissioner Hontz referred to Conclusion of Law #4 on page 98, which talks about the effects of any differences in use

or scale. She noted that there could not be a difference in use outside of the allowed use of this zone. If this project moves forward, Conclusion of Law #4 should be revised to say, "The affects of any difference in scale have been mitigated." Commissioner Hontz clarified that even as revised, she did not agree with the Conclusion of Law.

Commissioner Wintzer concurred with Commissioner Hontz's assessment. He noted that the Planning Commission has the right to reduce height and increase setbacks, and the reason is to better address mass and scale. Commissioner Wintzer referred to the Matrix on page 89 of the Staff report and disagreed that it represented historic structures. Commissioner Wintzer stated that 15 years ago his neighborhood wrote the HRL zone and the purpose was to create a neighborhood that people want to live in.

Commissioner Wintzer disagreed with Mr. DeGray that this project meets the General Plan. He found five areas in the General Plan that talks about reducing the mass and scale of Old Town and that new development should be a modest scale compatible with historic structures. In a survey taken, people said that new construction is threatening the mass and scale of the historic structures. Commissioner Wintzer stated that discussions about mass and scale should be about what they are trying to preserve, which is the mass and scale of the community. They are not trying to preserve mega-homes. In looking at page 141 of the Staff report, Commissioner Wintzer counted four floors in the first structure, which is not permitted by Code. He believed the first structure was connected to the second structure.

Commissioner Thomas agreed this was a difficult site with a lot of design challenges. However, he had to agree with comments made by Commissioners Hontz and Wintzer. Commissioner Thomas challenged the City's interpretation that this was not one structure because it is one single family residence. Commissioner Thomas believed the intent of the 2009 was to limit a structure to three stories. He counted five stories. He read from LMC Section 15-2.2-5, "No structure shall be erected to a height greater than 27 feet from existing grade." He reiterated previous comments that the Planning Commission has the purview to reduce the height. Commissioner Thomas further read, "Final grade must be within 4 feet of the existing grade around the periphery of the structure." With regards to the main house, Commissioner Thomas commented on the long linear window that was created to achieve two legal bedrooms that would otherwise not be legal. He would challenge the logic of putting bedrooms below grade where some had to climb up to safety and it caused him great concern.

Per the LMC, "The structure may have a maximum of three stories." Commissioner Thomas stated that in 2009 the Code was modified to count a basement as a story in the zone. Commissioner Thomas reviewed an elevation that showed a four story elevator; two stories above and two stories below grade, with beams and a walkway that physically connects one side to the other. Commissioner Thomas could not understand how the Staff could ever determine that this was not a connected continuous structure. He disagreed with the Staff interpretation and he also believed it would be questioned by the Building Department. Planner Evans clarified that the Building Department had already looked at the plans.

Commissioner Thomas was unsure how they could get over the hurdle that this was not a five story building. It is a burdensome lot but the proposed design solution was wrong in terms of number of

stories and the visual impacts on the community. Commissioner Thomas noted that he had previously requested a cross section through the garage and the elevator, and he was still waiting for it. In his opinion, this was an incomplete application. The streetscape is grossly inadequate and it was not what the Planning Commission had asked for. They wanted to see a streetscape showing the buildings and the context of the buildings next door. Commissioner Thomas believed the applicant had design hurdles to overcome, but as proposed he could not support it.

Commissioner Strachan asked if the applicant had applied for the Schneckloth exception under the conditional use. Mr. Wade replied that it was applied for and it was denied. Director Eddington noted that the applicant had been before the Planning Commissioner prior to asking for the exception. Commissioner Strachan understood that the applicant came to the Planning Commission, then applied for the exception, the exception was denied and it was again before the Planning Commission. Director Eddington explained that the exception was denied on the basis of a pending application and the need for review by the Planning Commission.

Commissioner Strachan asked if the applicant believed he needed the exception. Mr. Wade stated that it was needed in the sense that it reflects the fact that a project had already been reviewed. If they had not submitted an application for review by the Planning Commission, they could have gone to the Planning Director and requested a determination. However, because it a pending application before the Planning Commission, the Planning Director declined to strip away that review and would not grant the exception. If the Planning Commission does not approve the application, they would appeal directly to the City Council. Commissioner Strachan clarified that the exception was no longer an option for the applicant. They would either take an approval by the Planning Commission or appeal it to the City Council.

Commissioner Strachan stated that he still could not find that the dwelling volume was compatible with the surrounding structures. He thought the analysis on page 89 comparing it to existing structures was all they needed to make a finding that the dwelling volume is incompatible. Only two other structures would be larger in terms of total square footage. Commissioner Strachan agreed with Commissioner Wintzer that most of the structures on the list were non-historic structures. The compatibility analysis turns on a comparison to historic structures and not new development.

Commissioner Strachan thought the visual mass impact had not been mitigated. The difference in scale between the proposed structure and the existing structures in the surrounding area had not been mitigated as well. Commissioner Strachan did not believe the proposal could be compared to what might be built on different lots. The Code is clear that the comparison should be to existing structures. In comparing this proposal to existing structures the difference in scale was incompatible. He could not make a positive finding on that criteria in the Code.

Commissioner Hontz stated that she had read the historic minutes from December 14, 1994 on page 120 of the Staff report, to make sure she understood how they reached this point in terms of the lot, size and the thoughts of the previous Planning Commission. Commissioner Hontz thought the previous Commissioners had done a good job communicating their concern for setting a precedent for incremental buildup in the area. That was where they talked about reducing homes sizes and specifying it as a plat note. Commissioner Hontz stated that the convincing language from the minutes were key, "Commissioner Jones concurred with Commissioner Klingenstein and

remarked that the real issue is compatibility. The floor area ratios are maximum limits and often applicants believe they are allowed to build homes to the maximum size without regard to the neighborhood. He requested that the conditions of approval reiterate that the overriding criteria for house size is neighborhood compatibility in both design issues and how the home fits on the lot relative to the neighborhood.” Commissioner Hontz noted that the discussion continues as the former Commissioners tried to craft conditions of approval to support their concerns related to size, height, massing, and neighborhood compatibility. She believed this Planning Commission was continuing that discussion.

Commissioner Wintzer noted that the existing approvals were done in 1994 and did not believe any of the houses being compared were built in 1994. He believed what the City Council and the Planning Commission envisioned in 1994 was half the size of what they see today. The issue is that the community has allowed this creep and size to continue and they now realize it is not what they want.

Commissioner Savage asked if compatibility relates to back to the older period of time or to the current period. Commissioner Wintzer replied that the Code talks about compatibility with historic structures. At some point compatibility was being compared to newer structures and that was where they got off track. Somehow they needed to go back to what is directed in the Code.

Assistant City Attorney McLean read the definition of compatibility, from the definition section of the LMC, “Characteristics of different uses or designs that integrate with and relate to one another to maintain and/or enhance the context of a surrounding area or neighborhood. Elements affecting compatibility include, but are not limited to, height, scale mass and bulk of building, pedestrian and vehicular circulation, parking, landscaping and architecture, topography and environmentally sensitive areas.”

MOTION: Commissioner Wintzer made a motion to CONTINUE 30 Sampson Avenue and direct the Staff and the applicant to come back with findings that the building is not a three-story and to address the incompatible mass, scale and size. They also need to provide a streetscape that would allow the Planning Commission to look at compatibility and compare it with the adjacent buildings rather than a picture take from across the canyon.

Commissioner Strachan thought the Planning Commission need to decide if they wanted to continue this item with direction to Staff to remedy the stated issues, or if they wanted to deny it.

Assistant City Attorney McLean explained that typically when the Planning Commission does not adopt the Findings suggested by Staff, they could vote to deny based on their discussion and the Staff would draft findings for denial for ratification to make sure they would reflect all the pertinent comments given this evening. Commissioner Savage understood that Ms. McLean was suggesting that the Planning Commission either approve or deny this evening. Ms. McLean answered yes. Commissioner Gross clarified that if the Planning Commission votes to deny, the applicant to appeal their decision to the City Council. Ms. McLean replied that this was correct; however, the City Council would not hear the appeal until the Findings were ratified with the reasons for denial.

Commissioner Wintzer withdrew his motion.

Commissioner Strachan felt that even if they continued to another meeting, the Commissioner would still have the same concerns and issues. Commissioner Gross agreed. Commissioner Hontz noted that some information has been requested that could either further illustrate how this did not meet Code, or demonstrate changes that might moves the project closer to Code.

Mr. Budge stated that the applicant would like a decision this evening.

Commissioner Strachan pointed out that if the Planning Commission denies the application and it is appealed to the City Council, the City Council could overturn the Planning Commission decision. If they continue it with direction to the applicant to decrease the building volume and make a three-story structure, and other issues; the applicant could reject the continuation and request a denial.

Ms. McLean pointed out that the applicant had just requested a decision. She explained why the timing would be the same with either a continuation or a denial.

Commissioner Strachan asked if the plans presented this evening was the design the applicant wanted to take to the City Council. Mr. Jorgensen stated that if the Planning Commission wanted to put remove the detached portion that they were calling two stories, it would require long terracing and other things that he was unsure were even possible at that grade.

Mr. DeGray stated that based on the issues raised by the Planning Commission, they had been through an inter-department Staff review, including the Legal and Building Departments, and they had received no feedback saying that they were not in compliance with the number of building levels represented in the plan. He understood that the Planning Commission had a different interpretation.

Mr. Wade wanted to satisfy the concerns expressed by the Planning Commission, but given the topography of the lot and the fact that this was an approved use, he did not believe they could make additional changes to satisfy the Planning Commission.

MOTION: Commissioner Savage moved to APPROVE the Steep Slope Conditional Use Permit at 30 Sampson Avenue based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff report.

The motion died for lack of a second.

MOTION: Commissioner Savage motion to DENY the request for a Steep Slope CUP at 30 Sampson Avenue. Commissioner Strachan seconded the motion with the direction to Staff to prepare proposed Findings of Fact and Conclusions of Law for Denial based on the discussion this evening.

VOTE: The motion passed unanimously.

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The Park City Planning Commission meeting adjourned at 7:50 p.m.

Approved by Planning Commission: _____