

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JULY 11, 2012

COMMISSIONERS IN ATTENDANCE:

Chair Charlie Wintzer, Brooke Hontz, Mick Savage, Jack Thomas, Nann Worel

EX OFFICIO:

Planning Director, Thomas Eddington; Planner; Francisco Astorga, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

ROLL CALL

Chair Wintzer called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioner Strachan who was excused.

ADOPTION OF MINUTES – June 27, 2012

MOTION: Commissioner Worel approved the minutes of June 27, 2012. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously by those present on June 27, 2012. Commissioner Savage abstained since he was absent from that meeting.

PUBLIC INPUT

Jim Tedford stated that he was unfamiliar with the process of applying for building permits. He was trying to keep updated on the Kimball Arts Center addition and asked about the process and whether the public is notified.

Director Eddington explained that the applicant would submit a plan to the Planning Commission for approval prior to applying for a building permit through the Building Department. It would be noticed to the public. Director Eddington also anticipated a meeting with the City Council to discuss issues related to the Kimball Arts Center. The City Council agenda would be published in the newspaper. He expected that would occur in late August.

Director Eddington noted that anyone could register for e-notification on the webpage and provide their email address to automatically receive all the agendas for all meetings.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Eddington reminded the Commissioners of the joint meeting with the City Council the following evening at 5:30 p.m.

Director Eddington reported that a General Plan update and discussion was scheduled for the July 25th Planning Commission meeting.

Planner Astorga noted that Friday was Kayla Sintz last day with the Planning Department. She has been with the Planning Department since 2008.

Chair Wintzer disclosed that his company has done work with Joe Wrona, the attorney representing the applicant on the Claimjumper application. He did not believe that association would influence his decision on the project.

Election of Chair and Vice-Chair

Chair Wintzer felt it was important to have other Commissioners besides the Chair speak on the radio. He encouraged the other Commissioners to step up and take a turn. Diversity is healthy for the community and the radio is a great resource for putting out information.

Commissioner Hontz pointed out that Commissioner Strachan was absent this evening. She was certain that he would be comfortable with whomever they elected, but she asked if the Commissioners preferred to wait until Commissioner Strachan could participate in the decision.

Assistant City Attorney thought it was premature to elect a Chair and Vice-Chair this evening. She recommended that they wait until the new Commissioner was appointed and could participate.

The election of Chair and Vice-Chair was postponed until August.

CONTINUATION(S) – Discussion, Public Hearing and Possible Action

30 Sampson Avenue – Steep Slope Conditional Use Permit **(Application #PL-11-01487)**

Chair Wintzer opened the public hearing. There was no comment. Chair Wintzer closed the public hearing.

MOTION: Commissioner Savage moved to CONTINUE the 30 Sampson Avenue Steep Slope CUP to July 25, 2012. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

2175 Sidewinder Drive – Prospector Square – Amended Record of Survey **(Application #PL-12-01522)**

Chair Wintzer opened the public hearing. There was no comment. Chair closed the public hearing.

MOTION: Commissioner Hontz moved to CONTINUE the 2175 Sidewinder Drive Amended Record of Survey to a date uncertain. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. 916 Empire Avenue – Steep Slope Conditional Use Permit (Application #PL-12-01533)

Planner Astorga reported that Planner Whetstone was the project planner; however she was out of town and he was filling in this evening.

Planner Francisco Astorga reviewed the application for a conditional use permit for construction on a steep slope at 916 Empire Avenue. He noted that 916 Empire Avenue is a single Old Town lot of record 25' x 75' feet. The applicant was requesting to build a new single family dwelling, approximately 2300 square feet. Planner Astorga stated that construction over slopes 30% or greater require a conditional use permit to be reviewed and approved by the Planning Commission.

The Staff analysis was provided in the Staff report. Planner Astorga reviewed the drawings attached to the Staff report.

The Staff recommended that the Planning Commission conduct a public hearing and approve the Steep Slope CUP based on the findings of fact, conclusions of law and conditions of approval for consideration.

Craig Kitterman, the project architect, stated that they had worked with the Staff on the massing of the house and to step it down the hill. The Staff had clarified the current requirements regarding the use of historical siding and trim compatible with the existing historic homes in the area. Mr. Kitterman acknowledged that the proposed home is larger than the historic homes, but they tried to use vertical and horizontal trim on massing areas of the house in an effort to be compatible with the size of the existing homes. Mr. Kitterman commented on the size of the adjacent structures, which included a duplex on one side and a larger home at 920 Empire to the north. Mr. Kitterman noted that the proposed house was stepped down the hill to fit in with the heights on either side.

Planner Astorga noted that the applicant and Mr. Kitterman had met with Planner Whetstone and the Design Review Team as required for the Historic District Design Review pre-application. Information was given to the applicant in terms of potential items that must be mitigated; however, the pre-application had not been finalized. Planner Astorga stated that the applicant recently submitted the paperwork for the noticing requirements for the application. Planner Whetstone would be working with the architect to finalize the pre-application as part of the administrative approval.

Chair Wintzer referred to page A4 and questioned how floors are counted. He noted that per the LMC there is a height restriction and a limit of no more than three floors.

Planner Astorga explained that for the HR-1 and other HR Districts, the section related to Building Height simply indicates that structures shall be limited to three stories and that the lowest story counts as the first story.

Chair Wintzer referred to the right elevation and counted three floors. However, moving to the far left there was a half floor shown above the existing third floor. Chair Wintzer recalled that when the LMC was amended, they were very definite about limiting the number of stories to a maximum of three floors in a structure.

Planner Astorga reviewed the cross-sections on page A5. The Staff had noticed that the half story was identified on a cross-section through the length of the structure. However, cutting through the width, the stories are three and three. Planner Astorga believed this was the first structure to be built under the revisions of 2009 with the Old Town split level design.

Chair Wintzer remarked that the half story might not be critical on this particular lot, but if the lot was steeper it could end up being a full fourth story based on the definition. Planner Astorga agreed. Chair Wintzer explained that the idea for the 3-story limitation was that the more the house steps up the hill the more massing there is to the house. Chair Wintzer clarified that his concern was less with this house and more with the precedent they would set if they allow it with this project.

Commissioner Thomas stated that he sat on the Planning Commission throughout the evolution of the steep slope process and he believed the proposed project was inconsistent with the intent. It is a 3-1/2 story house and he could not support it based on the Code.

Planner Astorga read from Section 15-2-5, paragraph A of the LMC, "A structure may have a maximum of 3 stories. A basement counts as a first story within this zone. Attics that are not habitable space do not count as a story."

Commissioner Savage thought the language was ambiguous. He pointed out that in no particular location was it a 3-1/2 story house. Commissioner Thomas stated that stories are counted starting with the lowest level and that was how the Code was established. The intent was to get away from houses stepping up the mountain. Commissioner Thomas explained why he believed this was clearly a 3-1/2 story house.

Commissioner Thomas felt it was unfortunate that the issue had not been addressed at the Staff level. In his opinion, it did not meet the test of the Code.

Director Eddington remarked that the definition of a story in the HR-1 definitions was ambiguous; however, it specifically says a maximum of three stories. Director Eddington noted that the drawings showed a shift in floor plates and he agreed that the top could be construed as a half-story.

Commissioner Worel stated that the Code does not count the attic because it is not habitable space. She pointed out that the half story in this project was clearly habitable space.

In response to a question about the definition of a story, Director Eddington replied that a story is plate to plate.

Commissioner Savage stated that when he looked at the plan and read the Code, he understood that the spirit of the intent was to control the height of the building as it relates to the steepness of the slope. He believed this proposal was consistent with that objective. When he saw that the structure was no higher than three stories in any particular location, in his opinion it appeared to meet Code. Commissioner Savage acknowledged that he did not have the background or history of how the limitation was established.

Chair Wintzer suggested that the Planning Commission continue this item and ask the Staff to come back with a ruling on what constitutes three stories. Director Eddington replied that the Staff could do research and formulate that ruling in conjunction with the final design review. He noted that the Code allows a height exception for a downhill lot for a garage on a steep slope, but there is no exception for stories.

Commissioner Hontz remarked that the proposed house fits the site and the architect had done a good job designing the house on an Old Town downhill lot. Commissioner Hontz wanted to see a cross section of how the slopes drawn to scale would work coming into the garage. She indicated the grade changes of the driveway coming into the garage and noted that the same layout was used in other places in Old Town and it does not appear to work well.

Commissioner Hontz asked about the required front yard setback. Director Eddington stated that it was a minimum 10' front yard setback. Commissioner Hontz pointed out that the house sits nicely back, but it creates a longer and steeper entry into the garage. Since the setback exceeds the 10' minimum, she suggested that they move the house forward to reduce the grade into the garage.

Mr. Kitterman explained that they need to room to provide the parking space between the house and the property.

Commissioner Thomas agreed that the grade was steep, but he has personally designed similar garage entrances and it can work as long as there are transition slopes. He believed the Code allowed up to 14% grade. Commissioner Thomas noted that Mr. Kitterman had created a transition slope of 10% over 13 feet and he was comfortable with that design. Mr. Kitterman stated that he has designed other homes with that same type of driveway and it works well. He noted that in those circumstances the driveway needs to be heated.

Mr. Kitterman stated that in the past, the important issues for the Planning Commission was that the house fits the site, and even though it can be 27' above grade, that it does not look too massive. He chose traditional styles that help bring the mass of the house down in scale. Mr. Kitterman stated that in any one place the house looks only two stories. Mr. Kitterman stated that because he is the first to design a house on the downhill, he tried to work through the goals of the Code. Stepping the house down the lot was an important goal to make it fit the property and still reflect a 2

or 2-1/2 story from grade. Mr. Kitterman remarked that in the past they were allowed to excavate all the way back under and they ended up with four stories and a 22' deep excavation at the garage. He was able to avoid that with this particular house by the vertical placed in the mass. He believed the three story set meets the Code and the goals behind the Code.

Chair Wintzer apologized to Mr. Kitterman and the owner that the issue was not raised until this evening. He personally wanted a ruling from Staff on the definition of three stories and whether approving this design would set a precedent. Chair Wintzer agreed that the house fits the lots and the scale of the area. The issue is the elevation of 3-1/2 stories on the downhill side. Mr. Kitterman remarked that the advantage of the extra step in the conditional use permit is that the Planning Commission can look at each site individually and review each set of circumstances individually. Chair Wintzer stated that sometimes applicants accept rulings on a case by case basis, but most times they question why someone else was allowed to do it but they cannot.

Commissioner Thomas thought Mr. Kitterman had done a nice job of breaking up the building, stepping it down and responding to other considerations.

Commissioner Savage proposed that the Planning Commission continue this item and direct Staff to provide an interpretation of the Code on the basis of this specific application, and to also think about how the definitions could be strengthened to eliminate the ambiguity for future applications.

The applicant, Chuck Heath, was confused about the comment that the objective was not to step up the structure. It was indicated by Staff that the goal was to step it up the hill as opposed to having a large block building. He wanted clarification because the comments differed from what they were told. Chair Wintzer replied that the objective is to have the house fit the topography of the ground. The concern relates to the definition of three stories because that objective was to stop massive stepping up the hill.

Chair Wintzer opened the public hearing.

There were no comments.

Chair Wintzer closed the public hearing.

MOTION: Commissioner Savage moved to CONTINUE the Steep Slope CUP for 916 Empire Avenue to July 25, 2012, and direct Staff to provide an interpretation of the Code with reference to this specific application having to do with the definition of story. In addition, also provide a recommendation for a future amended version of the LMC that would eliminate the ambiguity associated with the interpretation discussed this evening.

Commissioner Thomas requested an amendment to the motion for the architect to provide cross sections through the garage and show a car entering the garage for analysis.

Commissioner Savage accepted the amendment to the motion. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

**2. 429 Woodside Avenue – Plat Amendment
(Application #PL-12-01550)**

Planner Astorga reviewed the application for a plat amendment to combine Lot B of the Elder Park Subdivision with an adjacent metes and bounds parcel, described in the survey as the rear parcel. The entire area is identified as one tax ID number. The combined area would yield a maximum footprint of 3,006 square feet. The applicant proposed to reduce the maximum footprint by 10% to approximately 2700 square feet.

Planner Astorga noted that page 64 of the Staff report listed the parameters and what is permitted by Code. The existing house is 1768 square feet. The applicant was requesting additions to the existing main structure totaling 270 square feet, which would allow the remaining footprint to be 660 square feet. Planner Astorga remarked that the plat amendment has a platted building envelope to build an accessory structure in the future. The building envelope for the accessory structure is approximately 804 square feet, and it would be further limited to 660 square feet per the remaining footprint on the added restriction. However, the applicant may choose to exercise the right to use that footprint for other additions in the main structure. Planner Astorga clarified that it was not specifically specified that the 660 square feet would be for the accessory structure. It could be one or the other, but not both.

David White, the project architect, clarified that the applicant was not proposing to add more than 270 square feet to the existing structure. Planner Astorga agreed that it was not being proposed. He was only pointing out that the applicant had the right to exercise that option in the future.

Mr. White reminded the Planning Commission that the proposal for a future accessory structure was only behind the existing house. The rest of the lot is a no-build zone. This was done at the request of the Quittin Time Condos, directly to the north. That stipulation would prevent anything from being built behind Quittin Time and nothing could be disturbed. Mr. White stated that an easement was added in the proposal because two rear decks from Quittin Time empty onto this lot. The applicant provided an easement for those two decks to come out and move to the north to property that is designated open space.

Chair Wintzer stated that he was on the Planning Commission when the original project was approved, and he would like to see the minutes and the Staff Reports from that approval. He recalled that the process was long and extensive and he wanted to refresh his memory on the events that led to that approval before making a decision on the plat amendment. He was particularly hesitant about adding 270 square feet to the existing structure and the potential for an accessory building in the rear without a better understanding of the original project.

Mr. White referred to the existing conditions survey and pointed out that the plat of the existing house showed a center portion that was referred to as a concrete deck. He explained that this was the area of the proposed addition. It would only be for the main level and it would not change any of the elevations. Mr. White stated that they were only proposing to work in that center area. If they are allowed to do that, that area would have a flat roof only at the main level area that would not be visible from any other elevation.

Commissioner Savage clarified that the applicant was basically covering an enclosed area. Mr. White replied that they would be covering the center enclosed deck. It currently does nothing for the home and it collects moisture and snow. The owner would like to develop that one portion into living space.

Commissioner Hontz concurred with Chair Wintzer. When she first read the Staff report she assumed there was history and discussion regarding the relationship of the two lots. After hearing from Mr. White, if enclosing the center portion was all that was being proposed, they would not be looking at Exhibit A, which showed a building envelope preserved for the future. That concerned her because in looking at page 77 of the Staff report, it was evident that the entire area, based mostly upon the Treasure Hill subdivision, is probably dedicated open space.

Assistant City Attorney McLean believed that the Treasure Hill area was dedicated open space. Mr. White clarified that this particular lot was not dedicated open space, but anything beyond it was.

Commissioner Hontz stated that she was referring to Exhibit F, page 77 of the Staff report, which clearly delineates the location of the Treasure Hill subdivision versus the subject lot. Looking at that in conjunction with page 75, it is clear that one portion of a structure off of Woodside is in that strip of open space. Commissioner Hontz also requested to see the minutes and some of the history. She was concerned that a building envelope for future development could be in that strip of open space. Commissioner Hontz understood that the applicant believes he has development rights associated with that lot; and if that is true, she wanted to see how they got there.

Planner Astorga remarked that Planner Whetstone was the project planner, and she mentioned in the Staff report that a Steep Slope CUP was approved in September 2008. He assumed that it was for the addition to the historic structure, and those were the minutes that Chair Wintzer was requesting. Chair Wintzer answered yes.

Chair Wintzer clarified that he was not suggesting any wrongdoing. He just wanted to make sure that allowing this plat amendment would not undo something that was done in the past. He recalled a contentious discussion with the applicant and that the Planning Commission thought it was too big for the site. The proposal eventually passed and he did not want to overlook anything. Chair Wintzer referred to the purpose statement of trying to preserve the character of 25' x 75' lots. He was concerned about creating a large L-shaped lot in the back and how that fits with intent of the original approval.

Commissioner Savage stated that the prior approval was for the existing lot configuration. The current requested plat amendment would combine the lots. Chair Wintzer replied that lots were also combined in the original approval. Commissioner Savage understood that the lots combined in the original approval were different lots and it did not involve the subject lot. The applicant now wants to combine the subject lot with the other, and as a consequence of that combination the applicant would then be entitled to some additional square footage. Commissioner Savage understood that the applicant was proposing to restrict the building pad to a modest area relative to what could be done in an effort to preserve the neighborhood.

Commissioner Thomas stated that if the Planning Commission chooses to continue this item, he would like Mr. White to cut a cross section through the site starting from the street all the way through the lots, to give a sense of the grade and where the building pad may occur visually. Mr. White remarked that the back lot is quite steep. He pointed out that the proposed accessory structure would not be attached to the existing house. There would be a patio between the existing house and the new accessory structure. Commissioner Thomas assumed that the accessory structure could be a guest house. Mr. White preferred to call it guest quarters because it would not have a kitchen and it would not be rentable, leasable or sellable. The applicant has a large family and his intent is to have an accessory structure to the main house. He would like ski storage, a possible exercise area and one or two bedrooms. Commissioner Thomas stated that if the accessory structure is connected to the house it would be completely inconsistent with the Code. However, if it is not attached, it would be Code compliant.

Mr. White stated that the applicant also agreed to a reduction in the maximum height from 27' to 24', which would limit it to a maximum of two stories.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

Commissioner Worel stated that she was not on the Planning Commission at the time of the original approval and she would like more background from the minutes. In her opinion, it appeared that they already had a four story structure, and they were proposing to add another story plus an accessory building. Chair Wintzer pointed out that it was all totally separate. Theoretically they could have two three-story buildings and still meet the Code. That was the difficult part of the process.

MOTION: Commissioner Hontz moved to CONTINUE the 429 Woodside Avenue plat amendment.

Director Eddington did not believe the Staff would have time to pull the requested documents for the July 25th meeting. He recommended Continuing to the August 8th meeting.

Mr. White stated that he only learned the day before that the approval of the lower house had gone through a lot of consternation. He questioned whether that approval was applicable to the request to erase the property line. Chair Wintzer stated that the only way to verify whether or not it was applicable was to research the minutes.

Commissioner Hontz continued her motion to CONTINUE the 429 Woodside Avenue Plat Amendment to August 8, 2012, with direction to Staff to provide any minutes related to the previous approval of the property and direction to Mr. White to provide a cross section through the entire site, including the existing house in its current state. Commissioner Thomas seconded the motion.

Commissioner Savage clarified that this was an application for a lot line amendment. He asked if the application requested any other structure changes or whether it was simply a recommendation to the City Council for a lot line amendment. Director Eddington stated that it was simply a recommendation for the plat amendment that would, based on the applicant's recommendation, set the footprint at a reduced level. A steep slope conditional use permit was not attached to this request. Commissioner Savage understood that anything done on this lot subsequent to the plat amendment would require separate approval. Director Eddington replied that this was correct. Mr. White pointed out that the accessory structure would also come back to the Planning Commission. Commissioner Savage pointed out that the accessory structure was not the subject of this plat amendment. The application was for the lot line amendment only, with the agreement of a reduction in footprint allowance.

Commissioner Savage stated that he was asking the questions because he thought it was important to do whatever they could to help applicants get their applications through. He wanted to make sure the decision to continue this item to a later meeting was based on relevance of this particular application. Chair Wintzer believe it was relevant because once the Planning Commission allows a lot line adjustment they open the door to certain things and it was important to understand what that could be.

VOTE: The motion passed unanimously.

**3. 573 Main Street, Claimjumper – Plat Amendment
(Application #PL-10-01105)**

Planner Astorga reviewed the application for a plat amendment at 573 Main Street for a three lot subdivision consisting of a commercial lot on the Main Street site, known as the Claimjumper building, and the reconfiguration of two lots on Park Avenue for two residential units in the future.

The Planning Commission reviewed the application on June 27, 2012 and directed the Staff to analyze and study the conditions of approval drafted in the Staff report, as well as additional conditions of approval presented by Joe Tesch to address the concerns raised by the neighbors. Mr. Tesch had been retained by a number of residents on Park Avenue to represent them in this matter. Mr. Tesch was not present this evening and his partner, Joseph Barrett was in attendance.

Planner Astorga reported that the Staff received another letter from Tesch Law Offices with an attached exhibit. The Planning Commissioners were handed a copy this evening. The exhibit highlighted suggested minor changes to the conditions of approval contained in the Staff report dated July 11, 2012. Planner Astorga was comfortable with the recommended changes submitted.

Billy Reed, Joe Wrona, Jonathan DeGray, and Evergreen Engineering were present to represent the applicant and answer questions.

The Staff recommended that the Planning Commission review the draft ordinance and the additional exhibit provided by Tesch Law Offices, and forward a positive recommendation to the City Council based on the Findings of Fact, Conclusions of Law and Conditions of Approval in the draft ordinance.

Joe Wrona, representing the applicant, thought the last meeting was a productive session. He stated that the added conditions were not everything that Joe Tesch was seeking, but through the discussion, the Planning Commission was able to draft language acceptable to the applicant. Mr. Wrona did not find the new changes suggested by Tesch Law Offices to be controversial and he believed they were consistent with the spirit of the discussion at the last meeting.

Mr. Wrona referred to the exhibit, Condition of Approval #2, and corrected the word recorded to record. Mr. Wrona referred to Condition of Approval #7 in the exhibit, and suggested adding the word, unauthorized after the word prohibiting in the first line, to indicate that the condition was prohibiting unauthorized parking. In that same condition, he recommended changing "beyond those spaces" to read, "within those spaces" to reflect the intent that there are two parking spaces for the residential units and access to those spaces is controlled. Mr. Wrona pointed out that at the last meeting everyone was very adamant that those spaces could only be used by the residential occupants of the upper floors. He believed his suggested change to Condition #7 better reflected what was discussed.

Commissioner Thomas referred to Mr. Tech's exhibit and felt that Conditions #8 and #11 were redundant in their meaning. Mr. Wrona believed that also applied to Condition #5. He was not opposed to the redundancy.

Assistant City Attorney McLean pointed out that Mr. Tesch had added the line (Conditions 3-11 to be noted on the Amended Plat) in the heading Conditions of Approval. She stated that the City does not normally note what conditions should be noted on the amended plat. If there is something in particular it will be stated on the plat, but typically the Legal Staff makes the determination. Ms. McLean recommended that the line not be included in the heading and that the reference also be removed from Condition #8.

Commissioner Hontz stated that personally she wanted to have some of the conditions listed on the plat. Commissioner Thomas concurred. In this particular case he favored the plat note. Ms. McLean clarified that the conditions of approval are included on the plat. However, as an example, the condition requiring a 10' snow storage easement is not included because it is actually shown on the plat itself. Those types of decisions are made by the Legal Staff after review, to make sure that the conditions of approval are adequately represented on the plat.

Chair Wintzer asked about the process for passing on information from this approval when the two lots are developed. Assistant City Attorney McLean replied that the plat notes are reflected on the plat. In addition, a note states that the plat is subject to the conditions of approval of Ordinance # _____. Chair Wintzer was comfortable with that process as long as it guarantees that the requirements are not lost over time. He assumed the Staff and the applicant would have the responsibility to read the ordinance before moving forward. Director Eddington replied that this was correct. Ms. McLean clarified that the Legal Department always makes sure that the important conditions are on the plat.

Commissioner Thomas thought there were too many layers to the process. The typical process is to research the plat and stop there. It is unusual to expect an architect or applicant to dig through

recorded notes. Commissioner Thomas thought the plat should be as upfront and as clear as possible.

Chair Wintzer asked if Ms. McLean would be comfortable putting specific conditions on the plat and having the rest in the notes. Ms. McLean reiterated that the conditions of approval are delineated as notes on the plat. She used the requirement for a landscape plan as another example of when a condition would be left off and why. The landscape plan has a time limit and the plat is in perpetuity.

Commissioner Hontz thought the landscape plan was a good example for why it should be included on the plat. She stated that something was currently amiss with a landscaping plan in Old Town and no one could find whether the landscaping plan was ever submitted or whether it was required. If it was required and that was on the plat, someone would know to look for it. If it could not be found, a new one must be submitted.

Chair Wintzer remarked that one drawback is that many times there are plat notes on the plat that no one knows what they mean, but they cannot get them removed. Putting a note on the plat that a landscape plan is required would be too ambiguous ten years from now. It is something that needs to be controlled during the building process and should not be on the plat.

Chair Wintzer opened the public hearing.

Joseph Barrett with Tesch Law Offices stated that he and Mr. Tesch represented some of the homeowners on Park Avenue in the HR-2 Zone. Mr. Barrett stated that Exhibit 1 as presented was their effort to describe draft Ordinance #12 that evolved from the June 27, 2012 Planning Commission meeting, with the red and yellow highlighting what they proposed to be changed. Nothing new was created and they tried to be consistent. Mr. Barrett apologized for the typo in Condition #2 as corrected by Mr. Wrona.

Mr. Barrett urged the Planning Commission to reflect what Mr. Wrona had suggested as a modification to Condition #7. He noted that he and Mr. Wrona had come to a consensus on the suggestion of adding the word "unauthorized" and substituting the word "in" for the word "beyond".

Commissioner Savage asked if it was safe to say that the law offices of Tesch and Wrona were both figuratively and literally on the same page. Mr. Barrett answered yes.

Chair Wintzer closed the public hearing.

Commissioner Hontz had minor changes to the conditions of approval and she preferred to work from the Staff report rather than the Exhibit from Tesch Law Offices.

Chair Wintzer referred to Condition of Approval #2 and requested changing one year to six months as the required time for recording the plat. His intent was to have the plat recorded prior to Sundance. He had seen the photos of what occurred on Park Avenue during the last Sundance Film Festival and he wanted to make sure that would not happen again.

Chair Wintzer noted that a change in the recording date would also apply to items in Condition of Approval #6. Also in Condition #6, Chair Wintzer added the language stating that, "By December 1 of 2012 the existing parking area must be blocked". He understood that the applicant might not have time to do the landscaping this year but he wanted the parking structure blocked and not open during Sundance.

Assistant City Attorney McLean expressed concerns from a legal perspective. In the event the applicant could not meet the December 1, 2012 deadline, the plat would not be recordable and they would have to come back to the Planning Commission for another process. She was not opposed to the 6 month recordation requirement because 6 months or one year is permitted by State Code. Chair Wintzer understood the concern; however, the barrier could be something simple such as Jersey barricades or a fence to block traffic through Sundance.

Chair Wintzer was absent from the June 27th discussion and he asked for clarification on the set of double doors in the back of the building as mentioned in Condition #9. Mr. DeGray replied that there is a single door on the north and south end of the building and the double doors on the back. Mr. Wrona pointed out that the double door mentioned in Condition #9 would be restricted to the residential use because it leads to the two parking spaces for those units. All other doors would become alarmed emergency access doors.

Chair Wintzer questioned why the back door could not be a single door. Mr. Wrona remarked that the residential units would be sold but they may be used for nightly rentals. A single door makes it difficult for people to move luggage in and out, which is the reason for the double doors. Chair Wintzer stated that these were two apartments that enter off of a residential area. He personally preferred a single door, but he deferred to the Commissioners who participated in the discussion at the last meeting.

Commissioner Thomas agreed that a double door was easier for luggage. Chair Wintzer understood the purpose; however, he was trying to keep it from becoming an entry statement into an unanticipated future use. Commissioner Thomas understood that it was physically impossible to walk from the lobby into the commercial part of the building in the HCB zone without triggering an alarm. He was not bothered by the double door.

Chair Wintzer suggested an additional condition of approval stating that there could be no special event permit issued for the two residential lots in the back that allows access into Park Avenue. He again referred to the pictures of what occurred during Sundance. Chair Wintzer felt the condition was important because sometimes special event permits supersede the intent of the Planning Commission. Director Eddington remarked that the condition should also include a Master Festival license.

Mr. Wrona was not opposed to the condition to prohibit special events. However, he was opposed to changing the recordation of the plat to six months. He explained that having one year to record the plat was critical because that area is planned as the construction staging area. The applicant would not be able to do the tenant improvement and complete construction for the upper floors until the next building season, and he agreed to the conditions because it allowed him to use the lot for construction purposes through the next building season. Mr. Wrona emphasized that it would be

extremely difficult for the applicant to comply with a six month deadline to record the plat because it triggers so many other things.

Chair Wintzer asked if the Planning Commission would be comfortable locking down the lot from December 1st through the end of February to ensure that there would not be access for Sundance vehicles. Commissioner Thomas suggested that it be locked down to construction staging only. If construction is still continuing during that time frame the access could be opened to construction related activity.

Planner Astorga suggested adding a construction fence until the project is completed. The space would be dedicated to construction staging as part of the construction mitigation plan. Mr. Wrona was amenable to an LOD or construction fence. He clarified that the big lot would remain until construction is completed, which would probably occur during the summer of 2013. At that point, it is reduced to two parking spaces, the landscaping is installed and the lockable device is added.

Chair Wintzer stated that the neighbors behind the Claimjumper have some of the nicest restored houses in Town and the Planning Commission has an obligation to help protect the residents and the neighborhood. He wanted to resolve the concerns in a way that would not require the neighbors to call enforcement every day.

Commissioner Worel asked if the construction fence would be up the entire time or just from December through February. Chair Wintzer replied that in the interest of moving the project along quickly, the fence should not go up until December and remain until after Sundance. The fence could have a gate to allow access for construction purposes only.

Chair Wintzer understood the applicant's concern with a 6 month deadline and agreed to keep the plat recordation at one year.

Commissioner Hontz was satisfied with Conditions 1-5 as written. Commissioner Hontz revised the first sentence of Condition #6 to read, "The existing parking lot shall be removed by replacing the current surface with landscaping until the residential structures are built on the HR-2 lots." Commissioner Hontz revised Condition #7 to read, "The two space parking easement in the HR-2 District shall have a lockable controlled access prohibiting parking and vehicle traffic beyond those two spaces."

To address the redundancy in Conditions 8 and 11, Commissioner Hontz combined Conditions 8 and 11 to read, "The easement from the two parking spaces on Park Avenue in the HR-2 zone to Lot 1 and in the HCB zone shall be for the use of the occupants of the residential units only, and noted on the amended plat." Commissioner Hontz revised language in Condition #9 to read, "Only one private access door for residential use may exist from the HB District to the HR-2 District lots. All other exits must be for emergency access only." Commissioner Hontz was satisfied with Condition #10 as written.

Commissioner Hontz added a new Condition #11 to read, "An LOD Construction fence is required on the HR-2 area to prohibit other uses besides construction to occur at a minimum from the dates of December 1st through March 1st." Chair Wintzer recommended changing the language from LOD

to chain link. Commissioner Hontz revised the condition to read, "A chain link construction fence with a lockable gate is required on the HR-2 area to prohibit other uses besides construction to occur at a minimum the dates of December 1st to March 1st."

Condition #12 was added to read, "There shall be no special event permit or master festival license issued that allows access through the rear of the property off of Park Avenue."

Mr. Wrona and Mr. Barrett accepted the modified conditions.

MOTION: Commissioner Hontz moved to forward a POSITIVE recommendation to the City Council for the 537 Main Street, Claimjumper plat amendment with the Findings of Fact, Conclusions of Law, and Conclusions of Law as amended in the meeting this evening. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 573 Main Street

1. The property is located at 573 Main Street and 564 & 572 Park Avenue.
2. This is a request to reconfigure six (6) Old Town lots and portions of two lots into three (3) lots of record through a plat amendment request.
3. The entire area is identified with Summit County as parcel No. PC-133.
4. Proposed Lot 1 located off Main Street consists of the site of the Claimjumper building.
5. Proposed Lots 2 and 3 located off Park Avenue consists of two residential lots.
6. The owner desires to remodel the interior walls to create a nightclub/bar/restaurant on the basement level, a restaurant with a lobby for access to the living units above on the main level, and the two (2) upper levels for residential use with one (1) living unit on each floor.
7. The Main Street lots are currently within the HCB District.
8. The Park Avenue lots are currently within the HR-2 District.
9. The Claimjumper Hotel building is located on the property and was constructed across existing property lines.
10. The Historic Site Inventory (HSI) identifies the site as a landmark site.
11. The site is listed in the National Register of Historic Places.
12. The property fronts on, and receives legal access from Main Street.

13. The Park Avenue lots currently contain an asphalt parking lot with a concrete gutter.
14. The asphalt parking area is not striped with room for ten (10) parking spaces.
15. The Park Avenue lots also contains portion of the current Claimjumper Building consisting of a newer wooden structure with a walkway, covered entry, and stairs.
16. In March 2007 the Historic Preservation Board (HPB) determined that the structure contained additions that were added in 1987 that were not historically significant.
17. In April 2007 the City Council approved a single lot subdivision over the historic structure, Main Street lots only. This approval was voided because the conditions of approval were not met and the plat was not recorded within a year.
18. In June 2007, the Planning Department reviewed and approved a HDDR application to remove the non-historic additions and replace them with new additions including a roof addition of two (2) penthouse units.
19. The applicant did not meet the condition of approval of obtaining a building permit within a year's time from the approval date and the HDDR approval was voided because the approval expired.
20. In 2009 the City Council approved an ordinance approving amendments to the Land Management Code which changed the criteria for designation of historic sites.
21. The subject site was listed as a contributing building on the National Register of Historic Places in 1979 as part of the park City Main Street Historic District.
22. The historic building was built within the historic period (1868-1929), is associated with the mining era, and retains its historic integrity.
23. The site meets the criteria set forth in LMC Chapter 15-11 in 2009 for designation as a Landmark Site.
24. The minimum lot area within the HCB is 1,250 square feet.
25. The proposed lot area for Lot 1 is 8,999.8 square feet.
26. The minimum lot width within the HCB is twenty-five feet (25').
27. The proposed lot width for Lot 1 is 94.97 feet.
28. The minimum lot depth within the HCB is fifty feet (50').
29. The proposed lot depth for Lot 1 is 75 feet.

30. The proposed building pad equates to 1, 101.5 square feet without the parking access easement. Due to the proposed parking easement on these two (2) lots the building pad would be further reduced by forty eight (48) square feet, totaling 1,053.5 square feet.
31. The maximum height envelope for the HCB District is thirty feet (30') at property line traversing at a forty-five degree angle back to a maximum of forty-five feet (45') above existing grade.
32. The existing historic building does not comply with the height envelope and therefore the building is a legal non-complying structure.
33. The existing rear additions to the historic building currently encroach onto the adjacent lots which front onto Park Avenue and are located within the HR-2 zoning district. They consist of a newer wooden structure with a walkway, covered entry, and stairs.
34. The proposed lots are reconfigured so that there are no improvements encroaching over the rear lot line.
35. All commercial access to the Claimjumper Building, 573 Main Street, will be off Main Street.
36. The minimum lot area within the HR-2 is 1,875 square feet.
37. The proposed lot area for Lot 2 and 3 is 2,060.97 square feet.
38. The minimum lot width within the HR-2 is twenty-five feet (25').
39. The proposed lot width for Lot 2 and 3 is 37.47 feet.
40. It has been estimated that the parking area was built between the late 1980's and early 1990's.
41. The parking area located in the rear of the building was built to accommodate the various uses in the Claimjumper Hotel Building.
42. Currently the HR-2 District allows a Residential Parking Are or Structure with greater than four (4) spaces with a conditional use permit.
43. The existing ten (10) car parking area is non-conforming because it does not comply with the current regulation.
44. The property owner proposes to reconfigure the existing ten (10) car parking lot to an area to only consist of two (2) parking spaces total for the exclusive use of the residential units to be located within the Claimjumper interior remodel through a parking easement over the two (2) proposed Park Avenue lots.

45. The proposed parking easement is allowed in the HR-2 District.
46. The building footprint of the two Park Avenue lots will be limited to 917.8 square feet.
47. Each lot will require two (2) off-street parking spaces for their residential use.
48. In 1992 the Claimjumper Hotel building was being threatened with condemnation unless it could be brought up to acceptable safety level.
49. In 1992 the current property owner applied for design review of two (2) additions to the building for stairs, including the addition off the back, to be reviewed by the Historic District Commission (HDC).
50. In 1992 the Chief Building Official advised the HDC that if the additions could not be made to work, the building would have to be demolished.
51. In 1992 the HDC approved the proposed building improvements.
52. In 1992 four existing parking spaces will be lost with the proposed plan but the site plan called for additional parking on the Park Avenue side.
53. In 1992 a design review condition of approval indicated that the additions were to meet all other requirements of the Land management Code and Building Code.
54. The HR-2 District was created from the HR-1 District in 2000.
55. In 1988 the City created the Historic Residential – Low Intensity Commercial Overlay (HR-2) District.
56. In this neighborhood when the HR-2 District was created in 2000 it changed the base zone from HR-1 to HR-2 and it removed both the HR-2 (Historic Residential Low Intensity Commercial Overlay and HTO (Historic Transition Overlay) which were both overlay zones at the time.
57. The Claimjumper Building site is current in Main Street Parking Special Improvement District and therefore is exempt from the parking requirement.
58. The parking easement proposed to be dedicated with this plat amendment is for the benefit of the two proposed residential units in the 573 Main Street building.
59. The parking easement consists of two (2) parking spaces and a six foot (6') access straddling the shared common property line of the two (2) Park Avenue lots towards the Main Street lot.
60. The proposed parking area platted as an easement over Lot 2 and 3 consist of legal parking space standards measuring nine feet (9') in width and eighteen feet (18') in length.

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

75. The current additions of the building located on the HR-2 portion of the development were built before this specific regulation and therefore is considered legal non-compliant.
76. There is no request to transfer any residential density.
77. In June 2007 the property owner of that time executed a Covenant Not to Build over a specific area where the building encroaches over the HR-2 District.
78. There are many filed code enforcement issues at the subject site.
79. These complaints have been and are currently handled by the Building Department.

Conclusions of Law – 573 Main Street

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

Conditions of Approval – 573 Main Street

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 (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. Modified 13-D sprinklers will be required for new residential construction along Park Avenue.
4. A 10-foot wide public snow storage easement shall be provided along Park Avenue.
5. The parking easement on Lots 2 and 3 for the benefit of Lot 1 is only permitted to be used for the residential units. The parking easement shall not be used for commercial purposes.
6. The existing parking lot shall be removed by replacing the current parking surface with landscaping until the residential structures are built on the HR-2 lots. A landscaping plan shall be approved by the City, but it shall be sufficient to clearly prohibit parking of any vehicles. The existing parking lot shall be removed prior to plat recordation. The landscaping requirement would not be imposed until after renovation is complete.
7. The two (2) parking space easement in the HR-2 District shall have a lockable controlled access prohibiting parking and vehicle traffic beyond those spaces.
8. The easement from the two (2) parking spaces on Park Avenue in the HR-2 District to Lot 1 in the HCB District shall be for the use by occupants of the residential units only.
9. Only one private access door for residential use may exist from the HCB District to the HR-2 District lots. All other exits must be for emergency access only.
10. The property owner shall donate a preservation easement to the City for the Historic Structure before the plat is recorded.
11. A chain link lockable construction fence is required on the HR-2 District to prohibit other uses besides construction staging to occur. This fence shall be installed no later than December 2, 2012 and shall remain in place at least until March 1, 2013.
12. There shall be no Special Event permit or Master Festival License activity that allows access through the rear of the property off Park Avenue.

The Park City Planning Commission meeting adjourned at 7:25 p.m.

Approved by Planning Commission: _____