

**PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
JUNE 26, 2013**

PRESENT: Nann Worel, Brooke Hontz, Stewart Gross, Jack Thomas, Mick Savage, Adam Strachan, Charlie Wintzer, Thomas Eddington, Francisco Astorga, Kirsten Whetstone, Anya Grahn, Polly Samuels McLean.

WORK SESSION ITEMS

1450/1460 Park Avenue - Conditional Use Permit (Application PL-13-01831)
1450/1460 Park Avenue - Plat Amendment (Application PL-13-01830)

Due to conflicts of interest, Commissioners Thomas and Hontz recused themselves and left the room.

Planner Francisco Astorga stated that this was the second work session for the Green Park Co-housing project at 1450/1460 Park Avenue. He provided an overview of the conditional permit for a multi-unit dwelling, a parking area with five or more spaces, and limited access off Sullivan Road. During the last meeting the Planning Commission clarified that due to the number of parking spaces they considered the parking area to be a parking lot. Planner Astorga clarified that the limited access requires a conditional use permit.

Planner Astorga stated that in addition to the CUP, the applicant had submitted applications for an HDDR, which is reviewed and approved by Staff, as well as a plat amendment to remove a lot line. He noted that the plat amendment would not make sense if the CUP is not approved for the uses.

Planner Astorga read the language from the Code stating, "A conditional use permit for limited access on Sullivan Road must be approved by the Planning Commission. He reported on a disagreement between Staff and the applicant. The applicant finds that the project meets all the applicable aspects of the conditional use permit. The Staff differed from that opinion as outlined in the Staff report. He requested input from the Planning Commission on some of the items outlined in the Staff report and the Staff interpretation. Planner Astorga stated that the Planning Commission would eventually have to make findings of fact and conclusions of law and applicable conditions of approval per the three requested uses.

Planner Astorga stated that the Planning Commission could either agree with the Staff interpretation, require the applicant to redesign the project or submit for a variance to the Board of Adjustment, or they could direct the Staff to begin a LMC amendment. If they choose the LMC amendment, it must be for the entire HRM district and not one particular site.

Planner Astorga noted that the Staff report was divided into five different sections. He stated that the Staff was not against the co-housing project and the seven affordable units proposed reflect the Park City values. He clarified that he was not against the co-housing principle, but his job was to interpret the LMC and create findings for the Planning Commission to approve in the future.

Planner Astorga stated that the first item for discussion was a special requirement for a multi-unit building. The Code requires 60% open space. However, in order to meet this criteria the applicant has to count the open space on the roof. The Staff would like to count the green roof as open space if it can be made accessible to everyone in the project. Planner Astorga pointed out that if the green

roof is not counted, the open space would only be 53%, which is less than the Code requirement.

Commissioner Gross asked if there was a special requirement for the roof to be green or whether it could be an open patio area. Planner Astorga replied that it would need to meet the green roof definition in the LMC, which requires vegetation.

Craig Elliott, the project architect, explained that the applicant was proposing a vegetated roof. Other areas with access had not been counted as open space. If those areas were counted the project would provide 85% open space. Commissioner Gross noted that many projects they have seen recently proposed green roofs and he wanted to make sure if more than just a reclaimed roof area with mechanical equipment on one side and patio tables on the other side.

Planner Astorga remarked that the Code uses the term "usable" in relation to open space. A requirement for a multi-unit building is to provide 60% open space.

Commissioner Wintzer noted that at the last meeting he had stated that he would consider approving the green roof as open space. However, this is a housing project that will have children and they were counting the setbacks as open space. In his opinion, it was not enough open space to make it work, but if someone wanted to squeeze it in under the definition, that would be their choice. Commissioner Wintzer emphasized that the City needed a definition for a green roof that works. The City Council decided that green roofs were acceptable, but they never went back to analyze the details of a green roof, what makes it work and whether it fits in the Historic District.

Commissioner Strachan asked if "usable" means access or whether it has to be useful, such as a garden or a recreation area. Planner Astorga explained that "usable" means that everyone in the project must have access to it without going through a private unit. It also means that it has to meet the definition of a green roof and have vegetation. Commissioner Strachan wanted to know how people would use the roof once they gain access. If there was nothing to do on the roof, he could not understand why they would need access.

Mr. Elliott concurred with Commissioner Strachan. He pointed out that there were a lot of reasons to have open space and green roofs count towards open space for several reasons. One is the opportunity to reduce runoff. It also reduces the heat load of the buildings. Green roofs do a lot of things that open space in general can do, and that was what they were trying to accomplish.

Planner Astorga reiterated that based on the Staff analysis, without the green roof there would only be 53.1% of open space, which would not comply with the open space requirement in the LMC. He asked if the Planning Commission agreed with the analysis, whether the applicant should redesign or submit a variance, or if the Planning Commission was willing to recommend that the Staff change the Code to lower the requirement.

Mr. Elliott remarked that people put bark, flowers and bushes and planting in the open space in their own yards. It is still open space but not space that people walk on and have access to. Commissioner Wintzer stated that the difference is that people can see it and it contributes to the community as open space. For that reason, he was having a hard time considering a roof as open space. Mr. Elliott commented on other elements in the community that is considered open space but it not used as a playground.

Director Eddington noted that Planner Astorga was interpreting usable as accessible. He agreed that there is open space in side, front and rear yards that is not overly usable, but it counts as open space. It is not the ideal and they tried to change that in the General Plan and come back with new definitions for open space. Currently, he believed that open space is basically green and not all of it is accessible. Gardens and landscaping is usable in terms of being visible and what it contributes. Director Eddington agreed that the current definition is not grand in out open space is counted. Side yards in Old Town are not that usable, and he believed the proposed green roof would fall under that category. You may not be able to play on the green roof but someone could walk around it.

Commissioner Savage understood that the developers, in conjunction with the homeowners, would have the right, but not the obligation, to turn the roof into a patio area and treat it however they wanted as long as it was accessible and complied with the requirements.

Commissioner Gross suggested that the green roof could be qualified similar to a landscaping plan on a house, where it is tied to the occupancy permit and must be completed in a certain manner.

Commissioner Savage stated that at the last meeting, his support of the green roof included the concept that it would be designed and developed in a way that would be green, accessible and desired to be accessed. He suggested that the applicant should come back with a preliminary plan indicating that the accessibility of the roof is meritorious. Chair Worel understood that the roof was accessible through private units. Mr. Elliott stated that it was no different from a typical condominium project where there is limited common space. Commissioner Wintzer pointed out that if a resident leaves town for a month, the open space would not be accessible if their unit is locked. Mr. Elliott explained that open space in a condominium project frequently is limited common area that would be accessible to that unit only and not to the entire project.

Jeff Werbelow, representing the applicant, stated that that this was not a typical project where no one is allowed in the units. It is a project where everyone shares everything in the project and everyone would have access to the green roofs. He explained that the original vision was to have an open space green roof similar to KPCW. They had not envisioned it as a playground.

Commissioner Gross understood that KPCW was not required to build the green roof. Director Eddington stated that it was negotiated into the building at the time as part of the CUP.

Planner Astorga understood that Commissioner Savage was suggested a re-design. He asked if the Planning Commission agreed with his assessment. Planner Astorga noted that if the Planning Commission did not follow the Staff recommendation, the open space would only be 53.1%. The options would be a variance or a re-design. Commissioner Strachan was unsure if the applicant could obtain a variance. Planner Astorga replied that the applicant would still have the right to apply for a variance.

Commissioner Strachan believed a third option was to change the LMC. In reading the definition of open space in the LMC, he noted that there are two types of open space; Open Space Landscape and Open Space Natural. Natural is the Round Valley type open space. Landscape is publicly accessible landscape areas, such as areas adjacent to public government facilities, playground equipment, recreational amenities, etc. He did not think a green roof was close to meeting that

definition. He was not opposed to allowing green roofs, but the Code needed to be changed before they could do it. Commissioner Strachan believed the issue was whether or not to incentivize people to put in green roofs. He personally thought they should. If that was the general consensus and the Code hinders that, then the Code should be amended so they could count green roofs at their discretion if it enhances the project and the community interest. Commissioners Worel and Wintzer concurred.

Commissioner Strachan believed the applicant had the option to redesign the project and come in under the current definition of open space, or request a Code amendment. He pointed out that amending the Code would be a slow process.

Mr. Elliott stated that part of the goal was to create garden space; however, the project is within the soils boundary. Based on the soils condition, they have an opportunity to put gardens on the roofs. Mr. Werbelow remarked that the intention is to have gardens on the roof. Commissioner Wintzer stated that they could put gardens on raised beds to keep it out of the soils, which is the same process as putting a garden on the roof.

Commissioner Wintzer pointed out that the Planning Commission has the obligation to enforce the Code. They do not have the ability to ignore it and it is not their job to change it. He felt the issue was problematic.

Commissioner Savage referred to the definition Commissioner Strachan had read, and that was included on page 20 of the Staff report, "LMC defines landscaped open space as landscaped areas which may include things such as public landscape and hardscape plazas." He stated that if the applicant came back with a schema that showed public raised bed gardening as a community garden for this shared development, he believed it would comply with the definition. Commissioner Wintzer pointed out that it would still not be publicly accessible.

Commissioner Savage thought there were two different discussions. One was publicly accessible and the other was whether the use qualifies for the definition of open space. In terms of the use, he thought it would be consistent with the definition. Chair Worel did not think it complied with the last part of the definition which states, "...but excluding buildings or structures." Commissioner Savage argued that it was a roof; not a building. It is a flat surface.

Mr. Elliott presented a slide showing the solar panels on the building. He noted that that end of the building had common area. There was a stairway that was common to everyone for access. Mr. Elliott stated that he could extend the stair to the roof and make that part green. He believed it would only require approximately 8% additional total square footage to meet the Code, if that was all that was required. In his opinion it would be a simple solution to resolve the open space access issue. Mr. Elliott was willing to make that change if the Planning Commission was willing to accept it as a solution. He clarified that it would not be a public access for anyone outside of the Green Park Co-Housing project.

Commissioner Strachan was not sure that the stair extension would meet the definition. Mr. Elliott noted that it would be privately held open space and no different from private courtyards or side yards. Commissioner Savage pointed out that where he lives he has the right to use the common space. However, "Joe Public" would not have that same right because he does not live there, but it

is still considered open space.

Commissioner Strachan thought the stair extension was a reasonable solution that comes close enough to meeting the definition. He recognized that it would not fit cleanly, but that was typical of most applications. Commissioner Wintzer concurred.

Chair Worel thought the issue made it clear that the LMC needed to be amended. Commissioner Strachan agreed that the definition needs to be revised if they want to incentivize green roofs in the future. Commissioner Wintzer reiterated his previous requests for the Staff to research a green roof definition. Director Eddington stated that the Staff has already drafted new definitions for open space, the different kinds of open space and green roofs for the General Plan. Once the General Plan process is completed, the LMC would be amended.

Director Eddington clarified that the Planning Commission would be comfortable with the green roof as open space with accessibility via the stairway; and there is no pre-exclusion with the words "but excluding buildings and structures", in the open space landscape definition. Director Eddington noted that a structure is typically defined as anything constructed and affixed to the ground. The Commissioners were comfortable with counting the green roof as open space as long as everyone in the co-housing development would have access to it.

Planner Astorga moved to the next issue of parking and interior landscaping. He noted that parking should generally be located to the rear of the buildings or screened so it does not dominate the streetscape. The Staff finds that the parking is not screened and therefore it does not comply.

Commissioner Strachan stated that a number of issues centered around the parking design. Planner Astorga replied that this section addresses the parking design. Commissioner Strachan recommended that Planner Astorga present all the parking related issues as one discussion rather than in pieces. The Commissioners concurred.

Mr. Elliott pointed out that Commissioner Strachan was absent from the last meeting and had not seen the full presentation of the projects. He requested the opportunity to briefly review his presentation because it shows the design concept, how it was put together, why they did it and what was done. He noted that it was the same presentation given at the last meeting with a few minor changes.

Mr. Elliott expressed disagreement with Planner Astorga's interpretation of the parking because the project does not have a parking lot. The project was designed with four driveways that go to garages and a driveway cannot be screened. The back lots are four Old Town lots of width. If there were four houses the driveways may be narrower but they would still exist. Mr. Elliott pointed out that the limited access discussion has a lot to do with a number of reasons. He explained that the limited access on Sullivan Road was put in because there was no dedicated right-of-way. In order to have access to the properties there needed to be something in the Code that allows it. Mr. Elliott stated that as second reason was to discourage access from Park Avenue. He noted that their plan removed two driveways from Park Avenue.

Commissioner Wintzer recalled that the Planning Commission had determined at the last meeting that the parking was a parking lot. Mr. Elliott stated that a parking lot would require a drive aisle, an

access and turn-in. Those can be screened because there is only one drive lane into a parking lot, which is a large area dedicated to parking. He would argue that this project did not have a parking lot because there were four different parking spots that connect to the street.

Planner Astorga agreed with Commissioner Wintzer that all the Commissioners, with the exception of Commissioner Strachan who was absent, determined that this qualified under the use of a parking area with five or more spaces. Commissioner Strachan was interested in seeing Mr. Elliott's presentation, particularly if changes were made since the last meeting.

Mr. Elliott reviewed the proposed development, the surrounding existing developments, as well as the roadways and parking. He noted that the orange areas indicated the historic homes on the block.

Commissioner Strachan asked if the 14 parking spaces proposed met the minimum parking requirements. Mr. Elliott replied that it exceeded the minimum requirement by four spaces. He explained why they were proposing to use parking on Park Avenue and clarified that it was not to meet the parking requirement.

Mr. Elliott pointed out the revisions that were made since the last meeting. They brought the building mass out and created recessed area for the garage and balcony areas off of each unit looking back into the Park area. Windows were added to the corners and they created a doorway in place of a window. Mr. Elliott indicated areas where the storage for trash and recycling was increased. It is screened from the public and it covered up what would have been another door. Therefore, two doors were reduced on the building mass from the previous plan, and the texture was changed for better articulation on the façade.

Commissioner Wintzer referred to the parking plan and asked if parking in the setbacks was allowed. Mr. Elliott replied that on a driveway you can park in the setback. Planner Astorga disagreed, and read language from LMC Section 15-3-14 on page 13 of the Staff report. "All parking lots shall maintain the required front and side yard as would be required for any structure". Commissioner Wintzer felt the language goes back to the question of whether this was a parking lot.

Commissioner Savage understood that whether or not this was a parking lot was a separate issue. If it is a parking lot Planner Astorga was right and if it was not a parking lot Craig Elliott was right. Planner Astorga replied that this was correct. Director Eddington explained that the alternative to the parking lot would be a series of driveways.

Commissioner Savage remarked that the nature of a parking lot is a situation where there is a certain number of parking spaces and people who have the right to use that parking lot can park in any of the spaces that exist in the lot. A driveway is dedicated to a unit and the people who do not own or live in that unit do not have the right to park in the driveway. Commissioner Wintzer pointed out that Unit 1 is parked in the garage and Unit 2 parks behind him outside of the garage. Planner Astorga pointed out that that would be part of the parking management which the City does not regulate. Commissioner Savage asked for the criteria that discerns whether or not it is a parking lot. Planner Astorga stated that he determined it was a parking lot because there are more than five parking spaces.

Commissioner Gross ask if the number of parking spaces was the only determining factor. He pointed out that the proposed parking exceeded the minimum and that was creating the issue. Planner Astorga noted that he had added the definitions of parking in his presentation.

Mr. Werbelow stated that they spent a lot of time on their parking plan. He noted that each tandem space was a unit and the family would park in the garage and in a driveway behind it. Two of the garages have parking partners and only two individuals share that space. He explained that it was not random parking where people could park anywhere like they would in a parking lot.

Planner Astorga reviewed Section 2 of his presentation, which focused on the parking issues. The first was interior landscaping of five feet. The applicant proposes four landscaping areas adjacent to the driveway/parking spaces, which is a strip of 2-1/2 feet and then two strip of 5-feet, and then another one of 2-1/2 feet. He noted that they have provided strips of landscaped areas; however, it does not meet the minimum of 5-feet. Another issue is street access and circulation, specifically parking areas designed for five or more vehicles. The LMC language states, "Must not necessitate backing cars on to adjoining public sidewalks, parking strips or roadways. The third issue was driveway widths and spacing. He read, "Residential and multi-unit dwellings and five or more parking spaces requires a minimum drive width of 18-feet. The maximum driveway width is 30-foot". Per the Historic District Guidelines, in the Historic District the minimum spacing requirement is 10-feet. Planner Astorga pointed out the conflict between the LMC requirement and the Design Guidelines. He noted that whenever there is a conflict of regulation the more strict requirement applies. Therefore, the minimum width needs to be 10-feet and this proposal does not meet that requirement. He clarified that it meets the criteria for a multi-unit building, but not in the Historic District.

Commissioner Savage asked if it was possible to resolve the collection of issues by allowing the project the spaces they need on Park Avenue. He believed expanding the parking on Park Avenue would mitigate the problem. Mr. Elliott stated that expanding the parking would require the Planning Commission to interpret it as driveways. Commissioner Savage asked if it would solve the problem of having five parking spaces if they kept the two spaces on Park Avenue and moved the open space on the front to the back. Mr. Elliott answered no.

Commissioner Wintzer asked if parking spaces 13 and 14 were in the side yard setbacks. Mr. Elliott answered yes. Commissioner Wintzer reiterated that parking in the setback is not permitted. Mr. Elliott remarked that the driveway is in the setback and parking is allowed in the driveway on the property.

Commissioner Strachan asked if any of the driveways exceed 30 feet. Planner Astorga gave the widths of all the driveways to show that they were under 30 feet.

Planner Astorga stated that the next section for discussion addressed tandem spaces. He noted that one provision in the Code states that tandem parking is only allowed for single-family dwelling, accessory apartments and duplexes in all zoning districts. However, another provision indicates that tandem parking is allowed in the Historic District. The Staff found compliance with this regulation and asked if the Planning Commission concurred with that finding.

Planner Astorga noted that the next section states that all parking lots shall maintain their required

front and side yard as would be required for any structure. The Staff did not find compliance on this issue.

Planner Astorga remarked that there was no added screening for the parking lot or driveway, and therefore, it does not comply with the criteria.

Planner Astorga noted that adjacent driveways must be separated by an island of 18-feet for a multi-unit dwelling. The Staff did not find compliance with this criteria.

For the purposes of discussion, Commissioner Savage asked if they were talking about a driveway or a parking lot. Planner Astorga stated that the Staff finds that it is both because it has a dual purpose. Commissioner Savage questioned how they could hold an applicant accountable to the most rigorous scenario for a parking lot and the most rigorous scenario for a driveway simultaneously. Planner Astorga believed they could because the use of the space has a dual purpose. You drive through it to get to a parking space in the garage and then you park another vehicle behind it. Commissioner Savage stated that it was called tandem parking. In his opinion it was a driveway and not a parking lot.

Planner Astorga stated that in all the criteria identified in Section 2, only a few apply to a parking space of five or more. He referred to page 13 of the Staff report and noted that there was not compliance with Criteria 1, 2, and 3. Criteria 4 and 5 were not applicable.

Commissioner Strachan clarified that Mr. Elliott was of the opinion that it was not a parking lot because it was broken up by the islands. Mr. Elliott stated that it was designed as a driveway. Commissioner Strachan stated that the fact that it is broken by the islands did not answer his questions. Mr. Elliott explained that the islands break the driveways into separate pieces and going into a garage makes it a driveway. It is not an access way to a parking lot.

The Commissioners and Staff discussed the widths of the islands. Director Eddington stated that the Code did not particularly address this particular situation because this development was multi-family dwelling units. He felt it was unclear on whether or not it could be called a driveway. Director Eddington pointed out that the Planning Commission previously deemed the parking a parking lot because it contained five or more spaces. Based on that determination there were spacing restrictions that Planner Astorga had previously outlined. However, the applicant believed it was a series of driveways. Director Eddington stated that the conflict needed to be resolved and the Planning Commission needed to make a determination this evening.

Commissioner Savage thought this was a good project that would be good for a lot of people. He thought the Planning Commission needed to find a way to solve the problem and to decide if it was easier to solve as a driveway or a parking lot. Commissioner Wintzer remarked that there were problems with either scenario.

Assistant City Attorney McLean advised the Planning Commission that as much as they like the project, they still needed to go back to the Code. If the Code is wrong, it can be changed, but they have the obligation to follow the Code that is in place.

Commissioner Gross felt the unfortunate issue with the problem is that it has a major frontage along

Park Avenue and a major frontage along a recreational parking lot. He assumed ten parking spaces were required for the project and the applicant was proposing 14. He thought a possible solution might be to eliminate four parking spaces and widen the buffers in the back to make them less objectionable and closer to Code. Commissioner Wintzer stated that the problem with that solution is that it would push the cars out into the neighborhood.

Planner Astorga emphasized that the bigger issue is that they do not comply with the design guidelines that says the driveway shall be limited to ten feet. He believed the smaller ones could be reduced but it would be difficult to reduce the ones that are 28.5 feet. Mr. Elliott believed the larger ones could be reduced to 21 feet. Planner Astorga pointed out that the requirement was found in the Historic District Guidelines. It was not a requirement of five or more parking spaces. The requirement applies regardless of the number of parking spaces.

Commissioner Savage stated that as a hypothetical, if the Planning Commission agreed to accept the plan as presented, he wanted to know what would need to be done to implement it. Planner Astorga replied that the Planning Commission would have to direct the Staff to change the LMC. Commissioner Savage assumed the next option would be for the applicant to apply for a variance. He understood that there was no way to approve the plan as designed without changing the LMC. Planner Astorga believed that was the only way.

Director Eddington referred to the Note on page 14 of the Staff report. Astorga read, "The City Engineer may approve minor space and width deviations. At this time no deviations have been made by the City Engineer." Mr. Elliott stated that they had not had the opportunity to visit the site with the City Engineer. Planner Astorga stated that he had many conversations with the City Engineer, which included him reviewing the entire Staff report. When Mr. Cassel has an issue he tries to work it out with Staff. Planner Astorga reported that Mr. Cassel had made no comments, which indicates that he occurs with the current Staff recommendation. Mr. Elliott stated that neither the design professional nor the owners had met with the City Engineer.

Commissioner Savage recommended that the project be set in abeyance until the applicants have the opportunity for review with the City Engineer. If the City Engineer can come up with a solution he supports, the Planning Commission would have a different position to consider. Planner Astorga pointed out that the language he read was from the LMC. Unfortunately, the City Engineer does not have the purview to override the 10-foot requirement for driveways as indicated in the design guidelines. He wanted to make sure that the applicant understood that Mr. Cassel would not be able to change the requirement from 10 to 18 feet.

Commissioner Strachan noted that if the City Engineer finds that it is not a minor deviation, it would tie the hands of the Planning Commission.

Assistant City Attorney believed that part of the conflict was that the Staff was given direction at the last meeting to review it as parking for five or more, and that was the basis of the analysis. Since both meetings were work session, it would be appropriate to re-examine whether or not it is a parking lot or driveways. She believed whichever avenue they take has its own challenges.

Planner Astorga was unclear on whether there was a different interpretation this evening as to whether it is five parking spaces or more. If the Planning Commission were to change their

interpretation, there would still be challenges to overcome to comply with Code. Commissioner Strachan could see no way to bend the Code because it was too far outside of the requirements. In his opinion, it is clearly a parking lot as defined because it has more than five spaces. It is not driveways. Assistant City Attorney stated that the alternative was to direct the Staff to look at LMC amendments for this area. Commissioner Gross was comfortable with that alternative. Commissioner Wintzer was not opposed to changing the LMC, but he thought it would be a quicker process for the applicant to consider redesign work rather than wait for changes to the LMC. Commissioner Wintzer agreed with Commissioner Strachan that there was no way to get around the Code. Commissioner Savage thought the only choice was to follow Ms. McLean's suggestion.

Planner Astorga clarified that the Planning Commission was leaning towards changing the LMC. The Commissioners concurred.

Planner Astorga commented on the Sullivan Road access. The first criteria was to increase front yard setbacks. He noted that all the setbacks met the minimum requirements. Planner Astorga referred to page 21 of the Staff report and reviewed the list of Mandatory Elements Criteria outlined in the LMC. The Staff could not find compliance with 2(b) increased front yard setbacks; 2(d) increased TDRs, open space, and/or preservation of significant landscape elements; 2(f) minimized access to Sullivan Road; 3) Design review under the Historic District Guidelines, 4) Incorporation of Pedestrian and Landscape Improvements along park Avenue, Sullivan Road and Eastern Avenue.

Mr. Elliott commented on the increased setbacks and stated that in the original concept, before the garages, the setbacks were five feet greater than the 20-foot minimum. He pointed out that the setbacks are actually 21 feet, which is one foot greater than the minimum. Planner Astorga stated that there was a dual requirement for setbacks. For a front facing garage the minimum requirement is 25 feet, and everything else is 20 feet.

Mr. Elliott explained his interpretation of the intent of the Code. Commissioner Strachan agreed with Mr. Elliott.

Planner Astorga asked if the Planning Commission agreed with his analysis that it was a double frontage lot. Commissioners Strachan, Worel, and Wintzer agreed. Commissioner Savage stated that there was no ambiguity in his mind that the front of the building was on Park Avenue and the back was on Sullivan. Commissioner Strachan believed the Code was written with the understanding that all those properties were double frontage lots and they would need to give on the Sullivan Road side to get the increased setback on Park Avenue, or visa-versa. He did not think it was necessary to increase the setback on Sullivan Road as long as there was the necessary setback on Park Avenue. He pointed out that the structures is front were historic and did not need to move. Commissioner Strachan believed his interpretation applied to the increased snow storage and to the rest of the criteria in Section 15-2.4-9B. The Commissioners concurred.

Planner Astorga referred to criteria (d) increase TDR, open space and/or preservation of significant landscaped elements. The Commissioners were unaware of any significant landscape elements. Planner Astorga stated that the Staff could make the interpretation that there were no significant landscape elements and, therefore, this requirement was not applicable.

Planner Astorga requested discussion on criteria (e), the elimination of multi-unit buildings. Commissioner Strachan noted that the Code states that the Planning Commission shall review and

evaluate the criteria for all projects along Sullivan Road. The Code does not say that a multi-unit or triplex dwelling is not allowed. In his opinion, it was optional. Commissioner Savage thought the criteria would not apply because there was not a multi-unit or triplex dwelling that could be eliminated. The Commissioners concurred.

Planner Astorga stated that criteria (f), minimize access to Sullivan Road, was in conjunction with the parking analysis. In looking at the site plan, he was unable to interpret that this would be limited access off of Sullivan. Commissioner Strachan thought the Code encouraged minimizing the access, but it is not required. The Code only says that the Planning Commission has to evaluate it. He believed they had already evaluated it in the context of the parking discussion by determining that the access to Sullivan Road as currently designed was too intensive based on the number of parking spaces.

Mr. Elliott pointed out that they were proposing 10 units, which was less than the base density of 14 units. Therefore, they had minimized the access by reducing the density. Commissioner Strachan remarked that if the applicant was able to resolve the parking problem, the access would be minimized further.

Mr. Elliott asked for clarification from the Planning Commission on whether the issue was that the proposed parking was too intensive or that it did not meet Code. Commissioner Savage replied that it did not meet the criteria of the Code. Commissioner Strachan thought it was both issues. The purpose of the Code is to control the intensity of use and that can be done through various means, including parking requirements. Mr. Elliott stated that he did not look at it as being too intense. His interpretation was being able to find a way to apply the Code. Commissioner Savage encouraged Mr. Elliott to explore a way to resolve the Code issues, which would include a reduction in the number of parking spaces.

Assistant City Attorney McLean understood that because the applicant was not maximizing the density that could be on these lots, Commissioner Strachan interpreted that as minimizing the access to Sullivan Road. She asked if there was consensus among the Planning Commission on that interpretation. The Commissioners concurred.

Planner Astorga noted that the Staff interpretation was non-compliance with 4) Incorporation of Pedestrian and Landscape Improvements along Park Avenue, Sullivan Road and Eastern Avenue. However, based on the direction he received for the increased snow storage and the preservation of the significant landscape elements, he thought he could work on finding compliance with the criteria.

Commissioner Strachan thought the project needed to have better pedestrian connections. Commissioner Gross agreed, and believed it was tied in with the parking in the back. Commissioner Strachan pointed out that the Code was more mandatory in this criteria because it says "the plans must save, preserve, or enhance...." Commissioner Strachan stated that if the project preserves or enhances the existing connections he thought that would be a reasonable interpretation. Commissioner Savage thought that would definitely be accomplished on the Park Avenue side because that perspective would be much more attractive than it is currently. Based on the final design, from an aesthetic standpoint he believed the back would be equivalent or superior to the adjacent projects.

Planner Astorga read criteria 5) Parking mitigation. Plans that keep the front yard setbacks clear of parking and minimize parking impacts near intensive uses on Sullivan Road are positive elements of

any site plan. He found that the project did not comply with this criteria. Commissioner Strachan stated that these were things that should occur, but he did not read it as mandatory.

Planner Astorga requested discussion on criteria 6) Preservation of Historic structures and landscape features. He noted that the Staff did not find compliance with the Design Guidelines and the CUP criteria in terms of mass, scale, and compatibility. The issue is that the separation between one historic structure and the new structure is 3-1/2 feet. The second historic structure has a separation of four feet. The interpretation is that it is extremely difficult to have a compatible addition when it is so close to the historic structure. He clarified that these were not additions because they are not connected; however, viewed from the public right-of-way, they would be seen as additions because of the close proximity.

Commissioner Savage asked if there was a provision in the Code that speaks to the specific issue of the distance between the buildings. Planner Astorga replied that the Code does not have a hard answer. However, the Staff finds that 3-1/2 feet is not enough distance and would recommend 8 to 10 feet of separation.

Mr. Elliott pointed out that they would be allowed to do additions to the historic structures. They felt this was a more appropriate way to maintain the historic structures and identify them as being separate; and at the same time keep them close enough to the rest of the units to be part of it. Mr. Elliott believed they had maintained the character of the existing structures and reduced the impacts of the structure behind. He felt the plan was very consistent with the Design Guidelines.

Commissioner Strachan clarified that the historic structures were part of this project. Mr. Elliott replied that they were two units in the project. He explained how the project was designed based on direction from Staff at the pre-application meeting. He reviewed the elevations showing the historic homes and the new building behind. Commissioner Savage thought the new building would need to be moved back a significant distance before the separation would be visible. Planner Astorga noted that the Staff was being strict on the interpretation of compliance with the Historic District Design Guidelines because the applicant had indicated that they would have the highest degree of historic preservation. Commissioner Savage thought the focus should be on questions related to the façade, colors and compatibility between the historic structures and the structures immediately behind them. In his opinion, the contrast of a modern building behind the historic structures would be more apparent than the distance between the buildings.

Mr. Elliott pointed out that they are encouraged not to mimic or replicate the historic structures. It is a delicate balance of design and they tried to place the building where it would have the least impact to the historic structure. As far as he could tell, they had not violated the Code or the Design Guidelines through the process, and they had designed the project with compatibility in mind.

Planner Astorga noted that the applicant would have to work with the Staff on the Historic District Design Review. The Planning Commission was not involved in the HDDR, but he encouraged their feedback and comments for consideration. Mr. Elliott was also interested in hearing the Commissioners comments. He would need to know if they did not find it compatible.

Commissioner Wintzer was uncomfortable with raising the two historic structures. He understood Mr. Elliott's reason for doing it, but it takes them out of the context of the streetscape. Mr. Elliott

stated that he could lower the one on the left by a foot, but they would have to take it out of the flood plain. The structure on the right fits the criteria in the zone and the design guidelines. Commissioner Wintzer suggested that Mr. Elliott look at taking the structures out of the flood plain.

Commissioner Strachan believed the applicant had a challenging battle meeting compatibility. The proposed structure was more modern than the adjacent multi-family structures, and he could not see a seamless transition with the two historic structures.

Chair Worel wanted to see the transition more seamless. She thought the new building was too modern to blend with the historic structures. Commissioner Gross agreed, particularly the view from Park Avenue looking east. Commissioner Strachan thought Mr. Elliott had the opportunity to revise the design to make it work.

Planner Astorga clarified that the Staff was not against co-housing and affordable units; however, they are charged with applying the Code.

Chair Worel called for public input.

Clark Barron, an owner in the Struggler condos adjacent to this project, agreed with the Staff report. In his opinion this project does not comply with Code on the issues of parking and compatibility. He recognized that some of the surrounding structures are very large, but they were built prior to the Historic District Design Guidelines. Mr. Barron remarked that the LMC and the guidelines are in place for a reason and this project should have to comply. Mr. Barron noted that the proponents of the property made them aware that these were the last two historic properties to be developed along Park Avenue. He believed that fact makes a stronger case for making sure it is developed in the right way. Mr. Barron believed the project as designed is not compatible with the surrounding structures. He agreed with the statement that new construction should be subordinate to the historic structures, and this structure is not. Mr. Barron did not agree with the discussion concerning two frontages. He noted that ten people live in the project and eight of the front yards front Sullivan Avenue and only two go the other direction. He was unsure how they could classify Sullivan Avenue as a back yard in terms of setbacks. Mr. Barron asked the Planning Commission to be cautious about counting the green roof as part of the open space. In his opinion it is a slippery slope. Another condo project could build property line to property line, cover the whole roof with grass and call it green space. That is not the intent of open space. Mr. Barron commented on the number of issues and problems with this project and noted that the reason is that it does not fit the lot. He believed there were better uses for this last historic green space.

Jane Crane, an owner in the Struggler condominiums, agreed with Mr. Barron on all the issues. She was concerned about water issues if the historic home next to the Struggler is raised. Her property already gets a lot of water from the snow and she worried about further problems if the elevation is changed.

Ethel Preston, one of the co-housing owners, was unsure what the Planning Commission was looking for in terms of compatibility. She noted that the two developments on either side of this project were built in the 1970's. Ms. Preston asked if the Planning Commission wanted the co-housing to look like a 1970's project. She did not understand their comments about looking more modern than the surrounding units.

Chair Worel explained that her comments was that she would like to see more seamless from Park Avenue so it flows with the historic structures as one property.

Ms. Preston pointed out that another person had said that the building looked too modern and it was not compatible with the surrounding structures. She asked what age they wanted the building to look like.

Commissioner Strachan noted that he had made the statement about being too modern. He could not define compatibility but he knows it when he sees it. Commissioner Savage told Ms. Preston that their comments addressed compatibility with the façade of the two historic buildings from Park Avenue. They were asking the applicant to find a way to make the façade of the new construction look harmonious and compatible with the look of the historic homes. He clarified that the Planning Commission was not recommending 1970 architecture.

Park City Heights – Possible amendments to Subdivision Plat (Application PL-11-01355)

Planner Whetstone reported that the purpose of the work session was to review contemplated changes to the subdivision plat for the Park City Heights Master Planned Development. The Master Planned Development was approved in 2011, along with a preliminary plat. The preliminary plat and the master planned development went through an extensive review over an extended period of time.

It was a concept plan with a master plan, and a lot of details were discussed before the master plan was approved with a series of conditions. Planner Whetstone noted that a number of different elements of the master plan and the preliminary plat were reviewed at the same time.

Planner Whetstone explained that due to the discovery of mine/waste and contaminated soils, the applicant felt it was necessary to create an area for an on-site repository for soils. It would require changing the configuration of the lots, but not the density. The density would remain at 239 units on 239 acres. The number of affordable housing units and market rate units would remain the same. Planner Whetstone recalled that there were eight affordable units that were not required but were being provided in the mix of 79 affordable units that were undefined. Those units have now been defined. She noted that the original neighborhood would be little smaller, but additional park areas were added.

Planner Whetstone stated that the applicant was working with the State on the Voluntary Cleanup Program; however, the remediation plan has not been approved. She had met with the applicant's representative to plan out a strategy and they felt that it was best to come back to the Planning Commission as a work session to determine the required process to address the issues. Planner Whetstone noted that the applicants would have to do a new preliminary plat for Phase 1 if the repository is approved to remedy the soils issues. The question was whether the applicants could come back to the Planning Commission with a new subdivision plat without re-opening the MPD.

Spencer White, representing the applicant, reiterated that the Park City Heights project went through a lengthy approval process and there was a significant amount of discussion between the Planning Commission and the applicants. They knew they would be coming back at each phase and they did not want to surprise the Planning Commission with a different layout. Mr. Spencer noted that they tried to keep everything as close to the original plan as possible. He not believe anything substantial

had changed, but they wanted the Planning Commission had a say in the process.

Mr. White stated that because of the contaminated soil and the amount of contaminated soil, they need to find a solution to clean it up and mitigate the issue. He explained that the best option is to create an on-site repository. In order to do that, they need seven to eight acres of area. Mr. White requested feedback from the Planning Commission to help address the situation.

Mr. White stated that in the original MPD there are 79 affordable/attainable units, and some of the units were not defined. He noted this current proposal defines those units. There are still 28 attached units, which are the IHC affordable units that were brought into the property. The 35 units that were affordable/attainable units from the City are now defined as small lots, single-family detached, high-density. The 16 units from the market rate units would be disbursed through the cottage homes as planned in the original MPD.

Mr. White remarked that they would prefer not to amend the MPD, and they do not believe it is necessary.

Mr. White outlined other changes that were different than the original MPD. Two parcels of commercial were never defined and they were left for someone in the future to potentially develop. With the space required for the repository, those two parcels were eliminated. Commissioner Strachan recalled that those were Parcels I and J. Mr. Spencer replied that this was correct. Mr. White noted that the two parcels were located along Richardson Flat Road and conditional use permits were attached to them in the future.

Mr. White commented on the positive aspects of the plan. He indicated the power corridor that runs up the property and noted that in the original MPD some lots were adjacent to the power corridor. During the planning process a visual analysis was done and those were of concern. Mr. White stated that all but the two highest lots were brought down further and some of the visual concerns were addressed.

Mr. White stated that the small lot, single-family detached units are an alley-loaded product. Some of the alley-loaded cottage homes were eliminated. Going through the Phase I approval process with Engineering and Public Works, they eliminated some of the alley-loaded product to address snow storage and similar issues. Mr. White noted that the design guidelines would stay the same, with the exception of minor modifications for the small single-family detached units.

Commissioner Hontz stated that if the Planning Commission determined that it needed to follow the MPD process based on Code, she wanted to know how that would be different from just amending the subdivision. Planner Whetstone replied that it was two phases. Based on Code, if there is a substantive change that would be considered a change in concept, density, unit type or configuration of any portion, the MPD would be reviewed. Otherwise, the applicants would have to start with a pre-application conference against the General Plan review.

Commissioner Hontz referred to the LMC language and felt strongly that this request met the first sentence, which states that if there is a change to the unit type or configuration, the entire master plan and development agreement is reviewed by the Planning Commission. The sentence did not say anything about a "substantive" change. Commissioner Hontz assumed that the MPD process

would lead to the subdivision replat, and it would only require one or two additional meetings.

Commissioner Hontz recalled that the Planning Commission had concerns relative to soils issues from the beginning and they asked the developer and the City to add language in the development agreement to indicate that there were concerns about soils issues. Mr. White replied that those were two different soils. Commissioner Hontz recalled specifically mentioning the issues on the soils across the street that had to be capped and mitigated. She pointed out that the issues were public safety, health and welfare. She was sympathetic to the problem, but the Code clearly states what they are obligated to do and she believed the applicant needed to come back for an MPD review.

Assistant City Attorney McLean stated that from a legal perspective, different interpretation was one reason why this was scheduled for a work session. She stated that when there is an MPD, minor changes are often done that do not come back to the Planning Commission because it was viewed as non-substantive. Commissioner Hontz stated that she would agree if it related to a window type or moving a house on a lot. However, the language clearly says unit type and configuration, and both of those things occur in this request. She felt they were fully within their rights to require a review of the MPD.

Commissioner Wintzer thought it would be helpful to see a list of everything that was approved and another list of everything they were changing so they could easily compare and determine which changes are substantive and which are not. He was concerned about the same issues in terms of number of units, the amount of open space, and the ridges along the edges. He suggested that the developer pull out the original visual analysis and show that it has not changed. Commissioner Wintzer was not interested in starting the process over, but he would like to compare it to what was already approved. He thought it would also help the new Commissioners understand what was approved and what was being changed.

Chris Gamvroulas with Ivory Development, noted that the Staff report contained 63 conditions of approval and possibly five would have a slight change. He noted that in an effort to make it easy for the Planning Commission visually, they had juxtaposed the plans. Mr. Gamvroulas explained that the previous plan was shown in yellow.

Mr. Gamvroulas stated that the topographical map that everyone was working off of had busts in it, and approximately 13' of issues within the topographical map were not accurate. They now have a very accurate topographical map. He pointed out that the low area by the frontage road is the area that would be filled in with remediated soils. Mr. Gamvroulas stated that they had a letter from DEQ moving them forward in the process of the Voluntary Cleanup Process through the State.

Mr. White clarified that the Voluntary Cleanup Program is State run through the Department of Environmental Quality. Some of the other sites are governed by the EPA. Mr. White pointed out that the DEQ has oversight by the EPA and they are aware of it as well. Mr. Gamvroulas stated that the State and the EPA were encouraging Park City Heights to put in the repository because there are many issues involved with truck the soils off-site. He pointed out that they were trying to resolve the problem as landowners and as citizens.

Mr. Gamvroulas reviewed the changes on the plan and identified the areas that were being

reconfigured. He noted that they were days away from recording the first plat when the soils issue was discovered.

Commissioner Savage understood that there was a discrepancy in opinions related to the nature of the direction going forward, and whether this would open the MPD to a complete review or if they could take a more simple approach. He thought they should address that issue before they spend time on the points outlined in the Staff report.

Director Eddington stated that the question was whether the MPD should be opened for an amendment review, or if they should take it forward as a plat review subdivision, conditioning that review with design guidelines. Commissioner Savage thought it was a question of what they are required to do, rather than what they want to do.

Commissioner Savage stated that if the Planning Commission conducted their review in the format suggested by Commissioner Wintzer, and as a result of that review did not identify any issues that would negatively impact the previously approved plat, he would support a simple modification rather than re-opening the entire MPD. However, he respected Commissioner Hontz's opinion regarding the Code language and he was interested in hearing the opinions of the other Commissioners.

Commissioner Hontz clarified that her concern was about setting precedent because the Code is very clear. She was comfortable with the review level, but she felt they were obligated to follow the Code. Commissioner Hontz stated that on a first glance she thought the changes proposed were good and she did not anticipate a difficult process. However, she would be uncomfortable if another MPD came forward with changes and they had already set the precedent.

Commissioner Strachan thought the applicant needed to go through the pre-application public hearing as required in LMC Section 15-6-4. He noted that the applicant had to go through the hoops before they could get to the discussion that they hoped to have this evening. Commissioner Wintzer thought they could review the changes and have the discussion quickly. Commissioner Strachan agreed that it could be done quickly, but just because it could be done fast, he did not think the applicants should be able to skip the steps to get there. Commissioner Wintzer shared the concern of setting a precedent; however, he thought all the steps could be accomplished in two or three meetings.

Commissioner Thomas was not ready to say that the changes were not substantive, and that still needed to be determined. He supported Commissioners Hontz, Strachan and Wintzer in terms of process and understanding the depth of the changes. If it takes the full process by Code interpretation, that is what they should do.

Commissioner Gross stated that he was not on the Planning Commission at the time of the original approval; however, at first glance he did not think the changes looked that significant. Chair Worel agreed that the request needed to go through the full review process.

Commissioner Savage recommended that in the course of initiating the process, that the Planning Commission achieve the objectives that Commissioner Wintzer recommended as early in the process as possible, so anything substantive would come forth very quickly.

Mr. White expressed his hope that they would not have to start at the beginning and that the review of the MPD could begin from where they left off. Commissioner Strachan pointed out that it was a different Planning Commission and the vote may be the same or it may be different.

The Commissioners and the applicant reviewed the process and what they hoped to accomplish. Commissioner Wintzer requested to see the views on the ridge, a section through the area they intend to fill and what it is and what it is going to be, and what they plan to do on top of the disturbed area.

Chair Worel called for public input.

There were no comments.

The Work Session was adjourned.