

PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
NOVEMBER 9, 2011

COMMISSIONERS IN ATTENDANCE:

Chair Charlie Wintzer, Brooke Hontz, Julia Pettit, Mick Savage, Adam Strachan, Jack Thomas, Nann Worel

EX OFFICIO:

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

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REGULAR MEETING

**ROLL CALL**

Chair Wintzer called the meeting to order at 5:30 p.m. and noted that all of the Commissioners were present.

**ADOPTION OF MINUTES**

September 28, 2011

Commissioner Hontz had requested that her comment regarding the task force on page one of the minutes, fifth paragraph, be verified with the recording. After receiving that verification she deleted the sentence "**Commissioner Hontz had reviewed the list of potential participants and crossed out a number of people she thought would not benefit the task force**". That wording was inaccurate and she believed her intent was reflected without the sentence.

MOTION: Commissioner Strachan moved to APPROVE the minutes of September 28, 2011 as amended. Commissioner Pettit seconded the motion.

VOTE: The motion passed unanimously.

October 26, 2011

MOTION: Commissioner Hontz moved to APPROVE the minutes of October 26, 2011 as written. Commissioner Pettit seconded the motion.

VOTE: The motion passed 6-1. Commissioner Savage abstained from the vote since he was absent from that meeting.

**PUBLIC INPUT**

There were no comments.

### **STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES**

Planner Kayla Sintz reported that last Thursday the City Council heard the item to amend the LMC to add the Historic Preservation Board to reconstruction reviews. The City Council continued the item, per a recommendation by the Historic Preservation Board, that once an approved reconstruction or disassembly had occurred, the Staff would bring that item to a work session with the HPB to review the process of how the Staff had applied the guidelines. At that time the HPB could consider making an additional recommendation.

Planner Sintz noted that reconstruction/disassembly applications are infrequent and she would inform the Planning Commission when that process occurs.

Planner Sintz stated that for the December HPB meeting, she and Dina Blaes would be conducting training on some of the myths and misconceptions of the current design guidelines. The Planning Commission was invited to attend that meeting at 5:00 p.m. on December 7<sup>th</sup>.

Assistant City Attorney McLean stated that when the HPB training is noticed, it would mention that the Planning Commission members may attend. That disclosure would avoid any conflicts if they have a quorum present.

Director Eddington had sent the Commissioners an email of upcoming meeting dates. The joint meeting with the City Council was scheduled for December 8<sup>th</sup> at 6:00 p.m. The exact time would be confirmed. The Planning Commission was invited to attend a work session with the City Council on December 1<sup>st</sup> to discuss some of the issues relative to the Rocky Mountain Power substation relocation. The work session would be held in the late afternoon and several hours would be dedicated for the discussion. He would notify the Planning Commission when the time was confirmed.

Commissioner Thomas disclosed that a social function for the Commissioners and Staff would be held at his office on November 18<sup>th</sup> at 6:00 p.m.

### **CONSENT AGENDA**

8200 Royal Street, Unit 47 & Unit 48, Stag Lodge – Amendment to Record of Survey  
(Application #PL-11-01367 & #PL-11-01368)

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

MOTION: Commissioner Thomas moved to APPROVE the Consent Agenda. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 8200 Royal Street, Units 47 & 48

1. The property is located at 8200 Royal Street East, Units 47 and 48.
2. The property is located within the Estate (E) zone and is subject to the Eleventh Amended Deer Valley MPD (DVMPD).
3. Within the DVMPD, a project can utilize either the City's Unit Equivalent (UE) formula or 2,000 square feet per UE or develop the allowed number of units without a stipulated unit size.
4. The Deer Valley MPD allowed 50 units to be built at the Stag Lodge parcel in addition to the 2 units that existed prior to the Deer Valley MPD. A total of 52 units are allowed per the Eleventh Amended Deer Valley MPD and 52 units exist within the Stag Lodge parcel. The Stag Lodge parcels are all included in the 11<sup>th</sup> Amended Deer Valley Master Plan and are not developed using the LMC unit equivalent formula.
5. Stag Lodge Phase III plat was approved by City Council on December 7, 1989 and recorded at Summit County on March 1, 1990. Stag Lodge Phase III plat, consisting of Units 36-43 and Unit 47, was first amended on November 29, 1990 and recorded at the County on December 3, 1990. The first amendment added private area to Units 36-43 and added Unit 48 to Phase III. Unit 47 was already part of the Phase III plat.
6. The Stag Lodge Phase III second amendment was approved on December 5, 1991 and recorded at the County on January 6, 1992. The second amendment increased the private area of Unit 43 to be equal to Units 40-41 at 4,595 sf.
7. A third amendment to the Stag Lodge Phase III plat approved on June 6, 2002 and recorded at the County on January 17, 2003. The third amendment added private area to units 36-39 to make all the units the same size at 4453.4 sf.
8. A subsequent fourth amendment correctly identified a portion of the upper floor area as private for Units 36-39 and designated a small deck area as private. The total floor area of these units remained at 4453.4. This amendment was approved on July 1, 2004 and recorded on May 25, 2005.
9. The private area of Units 47 and 48 was not previously amended by the various plat amendments. Unit 48 was added to the Phase III plat during the first amendment to the Stag Lodge Phase III plat.
10. On September 30, 2011, a complete application was submitted to the Planning Department for amendments to the Stag Lodge Phase III record of survey plat for Units 47 and 48.

11. The plat amendment identifies additional basement areas for Units 47 and 48 as private area for these units. The areas are currently considered common area because they are not designated as either private or limited common the plats.
12. The additional basement area is located within the existing building footprints and crawl space area and there is no increase in the footprint for these buildings.
13. Units 47 and 48 contain 3,367.49 sf of private area. If approved, the private area of Units 47 and 48 increases by 1,082.2 sf and 1,553.6 sf, respectively. Approval of the basement area as private area would increase Unit 47 to 4449.69 sf and Unit 48 to 4,921.09 sf.
14. As detached units, the parking requirements are 2 spaces per unit. Each unit has an attached two-car garage. The plat amendment does not increase the parking requirements for these units.
15. Unit 47 was constructed in 1989 and Unit 48 was constructed in 1990. Building permits were issued by the Building Department for the work. At the time of initial construction, the subject basement areas were partially excavated, unfinished crawl space, with unpaved floors.
16. In 2004 a building permit was issued for the creation of basement areas from the existing unfinished crawl space area for Unit 48. Similar work was permitted in 2010 for Unit 4.
17. On October 19, 2011, building permits were issued for both units for tenant improvement of the basement areas, including the new windows and doors, with conditions that certificates of occupancy for the finished basement areas will not be issued until the amended plat is recorded at Summit County.
18. The findings in the analysis section are incorporated herein.

Conclusions of Law – 8200 Royal Street, Units 47 & 48

1. There is good cause for this amendment to the record of survey.
2. The amended record of survey plat is consistent with the Park City land Management Code and applicable State law regarding condominium plats.
3. The amended records of survey plat is consistent with the 11<sup>th</sup> Amended and Restated Deer Valley Master Planned Development.
4. Neither the public nor any person will be materially injured by the proposed record of survey amendment.
5. Approval of the record of survey amendment, subject to the conditions of approval, will not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 8200 Royal Street, Units 47 & 48

1. The City Attorney and City Engineer will review and approve the final form and content of the amended record of survey plat for compliance with State law, the Land Management Code, the recorded plats, and the conditions of approval, prior to recordation of the amended plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat amendment will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. All conditions of approval of the Stag Lodge Condominium record of survey plats as amended shall continue to apply.
4. The plat shall be recorded at Summit County as a condition precedent to issuance of certificates of occupancy for the interior basement finish work, as permitted by the Building Department on October 19, 2011.

**REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION**

**1. 3715 Morning Star Estates – Plat Amendment  
(Application #PL-11-01341)**

Planner Matt Evans reviewed the application to amend Lot 2 of the Morning Star Estates Subdivision. The 12 lot subdivision on 178 acres was recorded in 1993. The applicant, who is the owner of Lot 2, which is a 3.2 acre parcel, was requesting to amend the subdivision to fix a problem that was discovered in August 2011 when it became evident that approximately 17,426 square feet of Lot 2 was owned by Park City.

Planner Evans explained that when the subdivision was recorded, a water tank parcel was platted within the subdivision. However, another piece of property the City owned was not platted and it was shown as an easement area on Lot 2. That error was not discovered by the title company. Planner Evans stated that the owners of Lot 2 became aware of this issue through their efforts to sell the property, and were asking to amend the subdivision to remove the City owned property.

Planner Evans noted that the request would create two parcels, and Lot 2 would become a three acre parcel, consisting of the main lot and a remnant parcel above the City owned parcel next to the water tank. Planner Evans reported that Morning Star Estates was a master planned development that can allow smaller lots. The building envelopes were zoned Estate and the remaining parcels were all zoned Residential Open Space. Planner Evans remarked that the Estate parcel building envelope would remain unchanged and the plat amendment would not change any easements. Planner Evans clarified that the only change would be to remove the City's ownership out of the recorded plat; however, it would create a remnant Parcel, which was shown as Parcel A, and it

would be a non-buildable parcel per the Restrictive Covenants of the Morning Star Estates subdivision.

Planner Evans reported that the City has agreed to grant an easement through the City owned property to enable the owners of Lot 2 to access Parcel A.

Commissioner Pettit asked where the easement would be located. Planner Evans presented a slide that identified the easements in purple. He pointed out the easement that the City would grant to the owner of Lot 2. Planner Evans stated that with the amended plat, the City-owned parcel becomes the same parcel as the water tank parcel. That was the major change with the proposed plat amendment.

The Staff found good cause for the plat amendment. The proposal would not change current conditions related to the property. The property is vacant with entitlements for a single family dwelling. The amended plat would not change the recorded easements or the building envelope. No portion of the lot within the Estate zone changes and the building parameters stay the same. Planner Evans reiterated that Lot 2 would change in size from 3.26 to 2.87 acres in total size. The application had gone through a complete inter-departmental review and all issues raised by the Development Review Committee have been addressed.

Planner Evans noted that all property owners within 300 feet had been notified and the property was posted. He received a few phone calls from people primarily asking for clarification on the application.

Planner Evans identified another piece of property within Lot 1 that is also owned by the City. The City has been in contact with the title company who did the title work in hopes of contacting the owners of Lot 1. Assistant City Attorney McLean had spoken with the title company, but she had not yet heard back. Therefore, there was a chance that the portion in Lot 1 could also be included as part of this plat amendment in an effort to clean up all the property lines. That option was not presented to the Planning Commission this evening because the City currently did not have authority from the owner of Lot 1. Ms. McLean stated that the property is 123 square feet and she only mentioned it to find out if the Planning Commission could foresee any issues.

Commissioner Hontz clarified that the City was granting the easement shown in red to the owners of Lot 2. She could not understand why the owner would need to access the remnant lot because it is unbuildable and is zoned ROS. Assistant City Attorney replied that the easement would be an access easement to allow the owners to access their property. Under the zone they could possibly build a small gazebo or install a bench. Planner Evans pointed out that if the owners wanted to build something allowed by the zone, they would still need approval from the HOA.

Chair Wintzer understood that the dashed purple line was the road to the water tank. He asked if the road could be extended over to the parcel or whether it would remain pedestrian access. He was told that currently there is not a road and it is too steep to extend one. Chair Wintzer preferred that it remain a pedestrian easement and not for motorized vehicles. Assistant City Attorney clarified that whatever easement is granted would need to be approved by the City Council for the City as the owner. Chair Wintzer could recommend that the City Council consider a pedestrian

easement. Commissioner Hontz wanted the easement specified in the plat notes because it was not clear on the plat.

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

Commissioner Pettit noted that Proposal #4 in the Staff report talks about designating an easement on the City parcel for the owner to access Parcel A, but that was not tied into the findings of fact or conditions of approval. Assistant City Attorney McLean acknowledged that it was an oversight and agreed that it should be a Finding of Fact. Commissioner Hontz suggested that they revise Finding of Fact #4 because it was inaccurate as written regarding changes to the easement.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

Due to the changes in the Findings of Fact and the pending outcome with the owner of Lot 1, Commissioner Strachan asked if this item should be continued. Assistant City Attorney McLean remarked that the owner of Lot 2 initially tried to sell the property, and now they were working out a settlement for the title insurance because of this issue. They cannot finalize the settlement until this issue is resolved. It was a matter of timing and the owner was anxious to move forward. Ms. McLean was not concerned about revising the findings from a legal perspective, but noted that the Planning Commission had the discretion to continue the item if they wished.

Commissioner Savage asked for the purpose of suggesting a continuance. Commissioner Strachan replied that it would allow time for the adjacent landowner to respond. If this plat amendment is disputed, their action this evening would be worthless. Ms. McLean clarified that the only issue with the owner of Lot 1 was that the City owns 123 feet of his property. Her only reason for mentioning Lot 1 was to see if the Planning Commission had concerns. Otherwise, if the owner was in agreement, the change would be made to reflect the 123 square feet as City property without coming back to the Planning Commission. Lot 1 would be re-described to be what it is now, with the exception of the 123 square feet. Nothing else would change.

Commissioner Strachan was comfortable with either a continuance or a vote this evening.

Commissioner Pettit asked if the City parcel had a specific designation. Ms. McLean replied that it is a metes and bounds parcel. She believed it would be referred to as the water tank parcel. Commissioner Pettit drafted Finding of Fact #7, "The plat amendment includes the designation of an easement on the water tank parcel for the owners of Lot 2 to access Parcel A". It was suggested that the finding specify a non-vehicular easement.

Commissioner Savage stated that assuming the water tank parcel was not an issue and it was one contiguous piece of property, he wanted to know what rights the owner would have in Parcel A and

the area designated ROS. He did not believe the Planning Commission should diminish those rights. Planner Evans stated that according to the ROS zone, in theory the owner could have an accessory structure under 650 square feet. Anything larger would require a conditional use permit. However, Restrictive Covenants for the development prohibits certain things beyond the zone. Commissioner Savage pointed out that unless vehicular access is prohibited by the CC&Rs, it would not be prohibited by the zone. He questioned why the Planning Commission would want to limit it to pedestrian access.

Commissioner Hontz was bothered by the fact that the original intent of the MPD approval was for that space to remain open space. Unless they wanted to open the MPD, she was not willing to allow anything in that area. Commissioner Pettit noted that the owner would still be limited by the CC&Rs and the MPD without this plat amendment. She agreed with Commissioner Savage that they should be careful not to take away any current rights. Commissioner Hontz concurred, but pointed out that the original notes already indicate that the parcel is not developable. Commissioner Pettit clarified that it was not a question of developing, but rather a question of allowing access from one property to another.

Assistant City McLean stated that legally it was a two-part issue. The owner could not do anything on the access easement or on their property that is not permissible under the Covenants, the Notes and the ROS zone. The second part is that ultimately the owner of that parcel, which is the City, would be granting the easement under a separate process. The City Council would grant the easement as the official owner and not as part of this plat amendment.

Commissioner Hontz stated that General Notes #6 of the existing approval states, "The recreation open space zone line shown on all lots indicates a non-disturbance zone, which expressly prohibits the construction of pools, tennis courts, gazebos, or any other structures or facilities". She wanted language on the plat to say that all Conditions of Approval of the original plat and General Notes remain in full force.

Assistant City Attorney McLean stated that when an item is approved with certain conditions of approval, she makes sure they end up as a note on the plat. Ms. McLean assured the Planning Commission that Conditions 3 and 4 would be reflected on the plat.

Commissioner Pettit understood from Ms. McLean that the actual easement itself was a separate process. Therefore, the additional finding she previously proposed would note that the plat amendment that came before the Planning Commission included an easement.

Commissioner Savage was unclear about the process. In his opinion, the easement would need to be granted in conjunction with the plat amendment so the plat as amended would not create a land locked parcel. Assistant City Attorney McLean pointed out that the existing plat was incorrect because the City owns that piece of property. The plat amendment only reflects the actual ownership lot lines. If they add a finding stating that there will be an easement across the City property, it acknowledges that the easement is part of the process, but the actual easement would be granted by the City Council.



Commissioner Pettit thought the easement should also be addressed in the conditions of approval; otherwise the plat would be incorrect if for some reason the easement was not granted. Chair Wintzer pointed out that the Planning Commission would be making a recommendation to the City Council. If the City Council decides otherwise, the plat would not be approved.

MOTION: Commissioner Pettit made a motion to forward a POSITIVE recommendation to the City Council on the 3715 Rising Star Lane plat amendment in accordance with the Findings of Fact, Conclusions of Law, and Conditions of Approval, including the amendment to the Findings of Fact #7 to read, "The plat amendment includes the designation of an easement on the water tank parcel for the owners of Lot 2 to access Parcel A". Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact – 3715 Rising Star Lane

1. The property is located at 3715 Rising Start Lane within the Estate (E) and Residential Open Space (ROS) zoning districts.
2. There are no proposed changes to the building envelope as recorded on the original plat or any other physical changes proposed to the lot.
3. The applicants are requesting to remove a parcel of property owned by Park City and used as an overflow detention basin as part of the adjacent water tank property and that is incorrectly shown as a part of the recorded Lot 2, Morning Star Estates recorded plat.
4. The applicant proposes no changes to the current easements recorded on the property which are necessary for the City to gain access to the water tank and overflow detention basin.
5. The applicant is entitled to construct one single-family dwelling on the proposed Lot 2 as amended, within the recorded building envelope.
6. Parcel A is a non-buildable (for primary structures) parcel permanently associated with Lot 2.
7. The plat amendment includes the designation of an easement on the water tank parcel for the owners of Lot 2 to access Parcel A.

#### Conclusions of Law – 3715 Rising Star Lane

1. There is good cause for this plat amendment.
2. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.

3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. Approval of the plat amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 3715 Rising Star Lane

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Future development is subject to the notes on the original plat associated with Lot 2, and as noted on the amended plat to read, "All conditions of approval of the original plat, Morning Star Estates, recorded March 31, 1993, as Entry No. 376621 will remain in full force and effect".
4. Parcel A is not separately buildable or developable, and shall remain a part of the ownership of Lot 2 in perpetuity.

**2. 335 Woodside Avenue – Steep Slope Conditional Use Permit  
(Application #PL-11-01214)**

The Planning Commission received copies of a letter from Ruth Meintsma regarding this item.

Planner Francisco Astorga reviewed the application for a Steep Slope CUP on a slope greater than 30%. He corrected the Staff report to reflect the accurate address of 335 Woodside and not 355 Woodside.

Planner Astorga stated that the site was listed on the Historic Sites Inventory as a landmark site due to an existing landmark home. The applicant was proposing to add an addition to the rear and a basement addition that includes a one car garage.

The Staff had received a pre-application for a Historic District Design Review and two conferences were scheduled between the applicant and City representatives, including Dina Blaes and the City architect. Based on specifics outlined in the 2009 Guidelines, the Staff believes the application complies on a preliminary basis. The Planning Department was currently waiting to receive the historic preservation plan and the physical condition report before they could complete the HDDR.

Planner Astorga noted that the Staff report listed the criteria outlined in the LMC that talks about construction on steep slopes. The Staff report also outlined the basic development parameters

from the 2009 amendments to the LMC, which included the three story height restriction. Planner Astorga noted that some of the drawings include retaining walls that may exceed 6 feet in height over the front yard. A condition of approval was drafted requiring that all retaining walls, whether in rear, front or side yard cannot exceed 6 feet. The applicant was aware of the condition and was confident that he could make it work. Planner Astorga identified the retaining walls on the drawings.

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the conditional use permit based on the findings of fact, conclusions of law and conditions of approval.

Commissioner Worel asked for clarification of the landmark status and asked if the Historic District Design Review would determine whether the landmark status might change. Planner Astorga explained that when an application comes in for any type of addition or remodel on a landmark site, whatever changes are proposed must keep the structure in landmark status. That determination is made through the HDDR.

Commissioner Savage assumed the letter they received from Ruth Meintsma spoke to the fact that historic designation falls under the purview of the HDDR and not the Planning Commission. He was told that this was correct.

Chair Wintzer opened the public hearing.

Carol Carter, a resident at 347 Woodside, stated that there is a vacant lot between the proposed remodel at 335 Woodside and her home. Ms. Carter was concerned about the discussion regarding the impacts associated with removing 4-1/2 feet off the back of the house. Ms. Carter presented a photo showing how the house looks like now. She noted that the center portion to connect the home to the addition cuts off a significant portion. She referred to another drawing that showed where the piece would come off the back. Having lived next to that home for over ten years, she loves that look and encouraged the Planning Commission to consider that in making their decision. The home is historic and has existed for many, many years. She understood that it was documented shortly after the turn of the last century. Ms. Carter supported the idea in Ms. Meintsma's letter to consider a garage off to the side of the house to visually maintain the front portion of the home.

Chair Wintzer closed the public hearing.

Commissioner Savage referred to an exhibit and asked if it showed a door. Planner Astorga replied that it was a door to the snow bank. The Staff discussed that element in the pre-application conferences and they do not believe the door was there historically. There are no appropriate photographs that show the door or the ghost lines from framing members, which is the evidence they need to justify which elements remain and which ones do not. Planner Astorga noted that the applicant was requesting to remove that door to the snow bank.

David White, the project architect, referred to the survey of the existing conditions, which showed a rectangle 26'6" wide x 29'6" long. During his documentation for the preservation plan, he found

that from inside the building the last five feet of the structure has been changed. The 1900 and 1907 Sanborn map shows a number of appendages going out the sides. It also shows the back wall with a shift in it. Mr. White pointed out that all that currently exists is the simple rectangle. There is no evidence of the appendages or the back wall shift. He determined that the last 4-1/2 to 5 feet of this structure is totally different construction from the original house. At some point the appendages shown on the 1900 Sanborn map were taken off and replaced with the last five feet on the structure. Through discussions with the Planning Department and Dina Blaes, it was determined that the last five feet was a non-contributory addition. Mr. White remarked that this was the reason why his transition area on the elevations was the last five feet. However, rather than diminish it, he recessed it approximately one foot on either side. The total 29'6" dimension is still there but it was shifted in.

Chair Wintzer clarified that the Planning Commission did not have the expertise to make the historic determination and it was the purview of Dina Blaes. Mr. White stated that to this point, Ms. Blaes was comfortable with the plans.

Chair Wintzer asked Mr. White to comment on the suggestion to move the garage. Mr. White stated that one of the first proposals was to put a detached garage in the wider space at the front of the lot, with a garage door. Because of the steep slope, the biggest part of the garage in the front would be underground. He previously made that proposal but the Planning Department would not approve it because it did not comply with the LMC in terms of setbacks and footprint. Planner Astorga explained that if they were to add the garage as proposed underground, it would have a lesser impact from the street; however, per the definition of the LMC, it would still count towards footprint. Therefore, counting the garage, the footprint exceeded the maximum allowed footprint by 500 square feet.

Director Eddington remarked that the challenge was that the design conflicted with Code because the garage would have required a variance to exceed footprint. Planner Astorga explained why the Staff could not support the variance.

Commissioner Pettit felt this was a good example of trying to preserve a landmark structure and where great care was taken with the design. It was also consistent with Criteria 3 where the preference is to have access to the side where feasible. Commissioner Pettit asked if there could have been a Land Management Code proposal that would address the issue. Director Eddington answered yes. However, in this particular case, the applicant was ready to move forward and did not want to wait for changes to the Code. Director Eddington noted that the Staff was currently working on another project with a similar challenge, and they were proposing to bring forth LMC changes to address the issue of garages. He anticipated a February time line. Chair Wintzer asked Mr. White about his construction schedule. Mr. White replied that the intent was to begin construction in the Spring.

John Watkins, the applicant, stated that he has been working with the Planning Department for two years to achieve an appropriate design. His goal was to preserve the house and he was very aware of what he was getting into. However, he was concerned that the house would fall from landmark status to significant status because he could not afford to keep investing money into something that may take another five years.

Commissioner Thomas felt it was easy to talk about “what ifs”. Even with a simple project there are several solutions. They were now talking about one solution where they had not had the opportunity to study the ramifications. He pointed out that Mr. White was a professional who had studied the ramifications and made a choice about the design. Commissioner Thomas thought the Planning Commission should review the design in terms of whether or not it meets the guidelines and whether it is consistent with the Code. He was not comfortable moving into an area outside of their purview.

Commissioner Pettit thought it was within their purview under Criteria 3 in terms of access. That was her reason for wanting to explore the issue further. Commissioner Thomas felt they could have that discussion with the proposal that was before them this evening.

Commissioner Hontz referred to page 102 of the Staff report and a picture of the house with two phenomenal evergreen trees. She noted that LMC Section 15-2.1-9, Vegetation Protection, talks about significant vegetation. She believed those two trees were the most significant pieces of vegetation in Old Town. In addition, they also make the structure more interesting. In looking at page 102, and the new structure as proposed, the same beautiful trees were shown. Commissioner Hontz pointed out that the trees are too large to successfully move and she was unsure if it was even possible to find another tree that large to replace it. Commissioner Hontz thought the trees were as equally significant as the home, particularly when considering all the other trees that have been lost in Old Town Park City. Commissioner Hontz did not think the lower picture on page 102 was an accurate representation of what it would actually look like. It may be a nice size tree, but there is no way it could be of the same size or of historical significance.

Commissioner Hontz asked for the difference in elevation between the existing structure and the remodeled structure. Planner Astorga agreed that one structure appeared to look higher in the drawings, but that was not accurate because the applicant was not requesting to lift the structure. The elevation would remain the same.

Mr. White commented on the trees. He noted that the applicant was proposing to remove one of the trees. He stated that the existing trees have overgrown the property and they nearly hide the house from the street. The applicant was proposing to remove the smaller of the two trees and replace it with a large tree that would be moved slightly. The new tree would not be as large as the existing tree, but the historic house would be more visible.

Commissioner Pettit asked if the stone wall in front was historic. Mr. White replied that it was not historic, but it is a nice wall and they propose to maintain it.

Commissioner Thomas understood that the larger tree on the right would be preserved. Mr. White replied that this was correct. The tree on the left hand side would be replaced with a large tree and moved over. Chair Wintzer agreed that moving the tree over would help the appearance of the house. Commissioner Thomas suggested making it a condition of approval to plant a significant size tree.

Commissioner Strachan remarked that the section of the Code says that the owner must protect significant vegetation during any development activity. It is not optional and he had a hard time finding compliance with that part of the Code.

Commissioner Pettit pointed out that the applicant was protecting most of the vegetation, and Commissioner Thomas had suggested a condition of approval to insure that the lost tree would be replaced with large tree. She thought it was unrealistic to think that the Code intends to protect everything regardless of the situation. She believed there were ways to mitigate the impacts through tree replacement.

Commissioner Thomas was unsure how to address the concern raised by Commissioner Strachan because it raises the question of which has the higher regard, the vegetation or the structure. Commissioner Strachan agreed that it pits two interests against each other. Commissioner Thomas was bothered less by the vegetation because replacement trees could be planted and the condition of approval could specify the size and type.

Commissioner Pettit noted that Condition of Approval #5 talks about the final landscape plan and she suggested amending that condition to include the trees.

Commissioner Savage asked if the property rights related to what the owner is entitled to develop supersedes the existing landscaping. Assistant City Attorney McLean replied that it was not a black and white issue. It is a conditional use and if the impacts of moving the vegetation can be mitigated, the CUP could be approved. Ms. McLean replied that each circumstance is different and needs to be evaluated on a case by case basis. She was comfortable from a legal perspective to include the trees in a condition of approval to mitigate the impacts.

Commissioner Thomas wanted to know what would happen if the significant oak trees are damaged during the construction process. He suggested that the condition of approval require replacement of significant vegetation of a certain caliper and height. Commissioner Hontz remarked that Significant Vegetation is a defined term in the LMC. She read, "Significant vegetation includes large trees 6-inches in diameter or greater, measured 4-1/2 feet above the ground". Commissioner Thomas did not think the size specified in the definition was adequate to replace the existing trees. For that reason, Commissioner Hontz thought the condition of approval should specify what the Commissioners wanted and not just refer to it as "significant vegetation". She believed the argument could be made that a smaller tree would show the house better and she agreed with that benefit. However, the existing trees are very tall and very large and they may be the last ones left in Old Town.

Due to the logistics of transporting, Commissioner Thomas was comfortable replacing the existing trees with a 25' tall species as the minimum height. Commissioner Strachan suggested language requiring the planting of trees of a certain type that are reasonably expected to reach significant vegetation status. Director Eddington remarked that height was more important than diameter for an evergreen tree. Mr. White concurred that if they specify a certain height, the diameter would take care of itself.

Commissioner Savage favored modifying Condition #5 to state that the approval of the plan will be done in a way that is consistent with the LMC definition for significant vegetation, which calls into perspective the definition of significant, and that if significant plants are removed they would be replaced by plants of equal or similar significance.

Commissioners Worel and Hontz wanted larger vegetation than what was required in the definition. Commissioner Hontz agreed that height was the greater issue. They should not be too concerned with the diameter because evergreen trees have a different look. Commissioner Savage clarified that he was suggesting that the condition of approval insure that the final landscape plan submitted for review and approval by the Planning Department is consistent with Code as it relates to removal of significant vegetation.

Director Eddington summarized that the condition of approval should note that the tree to the north should be protected and left in place. If it is necessary to remove the tree to the south, it must be replaced with a similar specimen tree 25 feet high, and to be reviewed by the Planning Department.

Commissioner Pettit asked if the replacement of trees could be tied to a certificate of occupancy. Commissioner Thomas recommended tying it to the reimbursement of the landscape bond. He believed it was a gray area because there was no guarantee that the newly planted trees would not die within a few years or that something would happen to the existing trees. Director Eddington believed the City has the right to hold the bond for a period after the certificate of occupancy has been issued. Depending on the time of year, the LMC allows the City to hold the bond until they see true signs of germination.

Commissioner Pettit suggested adding Finding of Fact #34 to indicate that there are two significant trees located in the front of the house. The Commissioners concurred.

Assistant City Attorney McLean recommended adding language to Condition of Approval #5 to read, "The south tree will be replaced with a similar species tree, 25' in height or higher". Director Eddington added, "The existing tree to the north is to be protected in place, fully protecting the drip line of the tree, and that the final tree to be replaced on the south side would be reviewed by the Planning Department prior to installation".

Commissioner Pettit drafted Finding of Fact #34 to read, "Under current conditions there are two significant evergreen trees located at the front of the historic home".

**MOTION:** Commissioner Thomas moved to APPROVE the conditional use permit for 335 Woodside Avenue, according to the Findings of Fact, Conclusions of Law, and Conditions of Approval as amended by adding Finding of Fact #34 and modifying Condition of Approval #5 as stated in the discussion. Commissioner Savage seconded the motion.

**VOTE:** The motion passed 4-2. Commissioners Pettit, Thomas, Worel and Savage voted in favor of the motion. Commissioners Hontz and Strachan voted against the motion.

Commissioner Hontz though the discussion was good and she sympathized with the applicant who proposed a better solution than what he was able to build. In looking at the remaining properties in Old Town and the challenges those owners would face, Commissioner Hontz wanted to know how

the process could be fixed to make it less procedural for those who try to do the right thing.

Director Eddington stated that in a normal situation the more restrictive of the LMC and the design guidelines prevails. In this particular case the owner was challenged because what they wanted to do required a variance by the Board of Adjustment. Commissioner Hontz thought the City would continue to see the same problems and she wanted to know how it could be addressed. Director Eddington remarked that the Staff has had internal discussions regarding this issue and they intend to bring forward an amendment to the LMC regarding footprint and the possibility of not counting footprint towards detached single car garages. Director Eddington pointed out that the proposed amendment would create its own impacts relative to the design guidelines in terms of putting a structure in front of a primary façade of a historic structure, but there are a number of cases where it would be the right thing to do. It is suitable approach but the applicant would have a hardship to prove why they must have additional footprint. They would have to meet five criteria to support it and that is very challenging in the State of Utah.

#### Findings of Fact – 335 Woodside Avenue

1. The property is located at 335 Woodside Avenue.
2. The property is within the Historic Residential (HR-1) District.
3. The property is Lot 1 of the 335 Woodside Avenue Subdivision, a parcel combination plat amendment.
4. The lot contains 3,750 square feet.
5. A Historic District Design Review (HDDR) application is currently being reviewed by Staff for compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009.
6. The Historic Site inventory identifies the site as a Landmark site due to the historic single family dwelling on the lot.
7. The proposal consists of an addition to the single family dwelling of 3,076.75 square feet. The historic structure is approximately 649.35 square feet. The overall proposed square footage is 3,726 square feet.
8. The area of the lot is 3,750 square feet which allows an overall building footprint of 1,519 square feet.
9. A building footprint of 1,494.25 square feet is proposed.
10. The proposed addition includes three (3) stories located towards the rear of the historic structure as well as a basement addition underneath the historic structure, which includes a one (1) car garage.



11. The applicant submitted a visual analysis, including a model, and renderings showing a contextual analysis of visual impacts.
12. The proposed structure will not be viewed from the key vantage points as indicated in the LMC Section 15-15-1.283, with the exception of a cross canyon view.
13. The cross canyon view contains a back drop of three (3) story buildings.
14. The proposed design incorporates a driveway from Woodside Avenue towards the area underneath the historic structure.
15. Retaining is necessary at the rear of the proposed addition to create a small patio which can be accessed through the upper floor only. This retaining wall does not exceed six feet (6') in height from final grade within the front yard area.
16. Retaining is also being requested around the driveway located in the front yard area. This retaining wall will not exceed six feet (6') in height from final grade within the front yard area.
17. The building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography.
18. The site design, stepping of the building mass, reduced building footprint, and increased setbacks maximize the opportunity for open area and natural vegetation to remain.
19. The proposed addition steps with the slope as it rises with the depth of the lot. The lower story is situated below the existing historic structure and it also extends towards the rear.
20. The upper level (3<sup>rd</sup> story) consists of approximately one-half (½) of the total footprint and is set back thirty-three (33') from the front façade.
21. Approximately 1,725 square feet of the total 3,726 square feet of building space is above ground, which equates to forty-six percent (46%).
22. Approximately 2,001 square feet of building space is under ground, which equates to fifty-four percent (54%).
23. The garage is below existing grade and is fifteen feet (15') from the front property line.
24. The adopted Historic District Design Guidelines have specific guidelines that need to be met for basement additions with a garage.
25. The proposed minimum side yard setback is five feet (5').
26. The side yard setback of the addition to the north is six feet (6').

27. The side yard setback of the addition to the south is six and a half feet (6'5").
28. Due to the existing porch covering the entire front façade the basement addition façade will be minimized and no wall effect will be created at the front lot line.
29. The design includes setback variations and lower building heights for portions of the structure.
30. The proposed massing and architectural design components are compatible with both the volume and massing of single family dwellings in the area.
31. The proposed structure meets the twenty-seven feet (27') maximum building height requirement measured from existing grade. Portions of the house are less than 27' in height.
32. The findings in the Analysis section of this report are incorporated herein.
33. The applicant stipulates to the conditions of approval.
34. Under current conditions there are two (2) significant evergreen trees located in front of the historic home.

#### Conclusions of Law – 335 Woodside Avenue

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.2-6(B).
2. The CUP, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

#### Conditions of Approval – 335 Woodside Avenue

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. A final utility plan, including a drainage plan for utility installation, public improvements, and drainage shall be submitted with the building permit submittal and shall be reviewed and approved by the City Engineer and utility providers prior to issuance of a building permit.

4. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standard is a condition precedent to building permit issuance.
5. A final landscape plan shall be submitted for review and approval by the City Planning Department, prior to building permit issuance. The existing south evergreen tree will be replaced with a similar species of tree of at least twenty-five (25') in height or higher. The existing north evergreen tree will be protected in place, fully protecting the drip line of the tree. The final tree to be replaced on the south side would be reviewed by the Planning Department prior to installation
6. No building permits shall be issued for this project unless and until the design is reviewed and approved by the Planning Department staff for compliance with this Conditional Use Permit and the 2009 Design Guidelines for Historic Districts and Historic Sites.
7. As part of the building permit review process, the applicant shall submit a certified topographical survey of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges to confirm that the building complies with all height restrictions.
8. If required by the Chief Building Official based on a review of the soils and geotechnical report submitted with the building permit, the applicant shall submit a detailed shoring plan prior to the issue of a building permit. If required by the Chief Building Official, the shoring plan shall include calculations that have been prepared, stamped, and signed by a licensed structural engineer.
9. This approval will expire on November 9, 2012 if a building permit has not been issued by the Building Department before the expiration date, unless an extension of this approval has been granted by the Planning Commission.
10. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission, subject to additional changes made during the Historic District Design Review.
11. All retaining walls within any of the setback areas shall not exceed more than six feet in height measured from final grade.

The Park City Planning Commission meeting adjourned at 7:15 p.m.

Approved by Planning Commission: \_\_\_\_\_